safer with a weapon in the home, and you have a very large proportion of the populace that either doesn't know how to use a gun or—if it knows—is so unstable or antisocial that it is very dangerous to others.

A day or so ago a young man shot and killed himself while playing Russian roulette, apparently to impress his teen-aged sisters. Without a gun in the house he almost certainly still would be alive. The same can be said, of course, for the Detroit housewife shot down by her husband a few weeks ago after a quarrel, and for the victims of the countless toddlers who find a poorly hidden gun and kill themselves or someone else.

A separate column could be written about hunters, and the toll they take among their fellow hunters either thru pulling the trigger while intoxicated or without knowing what they are shooting at. But the discussion of hunters and why they get pleasure out of killing is another story.

Meanwhile, as long as the Congress has such a cultivated fear of the gun lobby that its members are afraid to vote laws with any teeth in them, this country will continue to lead the world in gunshot deaths and injuries. What Congressmen forget is that there are a great many more gun haters than gun lovers, and there would seem to be more of a right not-to-be-shot than a right to own something whose principal purpose is to kill.

THE CONSUMER HAS GOT TO FIGHT

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 27, 1974

Mr. STOKES. Mr. Speaker, an article in the February 17 Plain Dealer gave Clevelanders a look at what their local Consumer Protection Association can help them do for themselves.

Solomon Harge, director of CPA, is giving tremendous service to the consumers of Cleveland, and I wish to pay tribute to him by inserting this story of his success in the RECORD:

[From the Plain Dealer, Feb. 17, 1974]

CONSUMER BATTLE PAYS OFF—VICTIM OF ERROR WINS $1,155

(By Deena Mirow)

Tears glistened in Rose Grega's eyes when she received a check for $1,155.17 from representatives of the Consumer Protection Association and the Ohio Department of Insurance last week.

That check represented not only a sizable amount of money to Mrs. Grega but also the end of a two-year struggle.

Mrs. Grega's battle goes back to November 1971 when she decided to cash in a life insurance policy she had purchased seven years before from the Metropolitan Life Insurance Co.

The table in her policy, which she had studied carefully over the years, indicated she should receive $3,090 plus dividends and interest. The check she received from the company was for $2,402.68.

When she inquired about the discrepency, company officials told her that because of a clerical error the wrong table had been inserted in her policy. According to the table that should have been in the policy, she was entitled only to the lesser amount.

Mrs. Grega did not think it was fair for her to suffer because of an error someone else had made seven years before. She had previously taken out loans on the policy and the table in her policy had been used. Nothing was said about an error at those times.

Mrs. Grega started to work through channels but got no results. She complained to the insurance company and the Ohio Department of Insurance. She saw a lawyer. She wrote to Ralph Nader.

She and her husband had scrimped all their lives to pay huge medical and education bills for a son who had crippling arthritis since childhood. She had taken out the policy because she knew someday she would need the money. The day had come, and she felt cheated.

Her path finally led her to the Consumer Protection Association, a private group largely financed by United Torch.

"We knew it was wrong," said Solomon Harge, association director. "What burned us all up was the money really didn't mean anything to Metropolitan Life Insurance Co., but it did mean a lot to the Grega family."

Harge began working through his own channels and finally persuaded Jimmie E. Jones, Jr. of the Ohio Insurance Department to reopen the case.

"I was fortunate to be able to get through to some people at Metropolitan Life who could see the human element in this, the agony Mrs. Grega went through when she found out something she had counted on for seven years was not available," Jones said. "They realized the humane thing to do was to pay the difference."

Mrs. Grega, who now lives in Chardon, came to the association's office last week so Harge and Jones could give her a check for the difference.

In addition to the check, Harge also offered what he thought was the moral of Mrs. Grega's struggle. The consumer has got to fight. He may lose the first round, but he has to pick himself up and continue to fight for what he thinks is right.

HARRY BRIDGES SHOWS TRUE COLORS

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 27, 1974

Mr. ASHBROOK. Mr. Speaker, "it's a great day for our organization" boasts Harry Bridges, president of the International Longshoremen's and Warehousemen's Union. Standing under a picture of Chairman Mao, Bridges speaks affectionately of his Chinese Communist "comrades." Around him banners proclaim "Proletariat of the World Unite" and "Long Live China-U.S. Peoples' Friendship." The occasion is the loading by Bridges' men of the first ship in 25 years to carry general cargo from San Francisco to Communist China.

Those who have followed the leftist career of Harry Bridges probably are not surprised by all this. The surprise and real tragedy is that, unlike 25 years ago, Bridges' statements stir so little controversy. In fact, the above appearances and speech was a staged media event under television lights.

Following is the complete text of the December 13, 1973, San Francisco Chronicle story on Harry Bridges:

HARRY BRIDGES IN A CHANGED WORLD

(By Keith Power)

There was a waterfront episode yesterday that 40 years ago would have confirmed the darkest suspicion of San Francisco's establishment about that union firebrand, the young Australian Harry Bridges.

In a cramped cabin aboard a ship bound for China, Bridges stood under a solemn picture of Chairman Mao and spoke affectionately of his "comrades" the Communist Chinese.

"It's a great day for our organization," boasted Bridges.

But large portions of the comfortable old world have been turned upside down the past four decades, and Bridges' appearance, far from being clandestine, was a staged media event under television lights.

Tsingtao beer and a curious Chinese soda pop, tasting faintly of orange, flowed copiously in the messroom of the cargo ship Caspian Sea. The bulkheads were hung with slogans proclaiming "Proletariat of the World Unite" and "Long Live China-U.S. Peoples' Friendship."

Bridges, now 71 and a registered Republican, was there as president of the International Longshoremen's and Warehousemen's Union.

A lean, nattily dressed figure, Bridges was speaking for his union organization when he hailed the occasion—the loading by his men of the first ship in 25 years to carry general cargo out of San Francisco for China.

Changing official hats, he also said a few words of welcome for the Port of San Francisco, which he helps direct as a port commissioner appointed by Mayor Joseph L. Alioto.

Two months ago the Chinese government decided to dis-invite Bridges and a union delegation planning to visit the country, after unflattering articles—at least in the eyes of Peking—appeared in the union's newspaper.

The ILWU has re-applied for admission, saying it was all a misunderstanding, and a union official on board the ship yesterday said Bridges' appearance hopefully would help their case.

Speaking between two blue-jacketed crew members at the table of honor, Bridges emphasized the ILWU's long support of the People's Republic as the true government of China, "sometimes against difficult odds."

The bonds of friendship between the Chinese and American People were celebrated in a statement read by Cheung Man Pio, chairman of the ship's welfare committee, and heartily applauded by fellow crew members who crowded into the cabin.

The Caspian Sea, registered under the flag of the Republic of Somali, is owned by the Chinese National Chartering Corp. and is sailed by a crew composed mainly of Hong Kong Chinese under an English captain.

She is bound for Shanghai with a cargo of cotton and aluminum ingots consigned from Longview, Wash.; San Francisco and Long Beach. Although there have been recent sailings of grain for China here, this is the first ship carrying general cargo.

SENATE—*Thursday, February 28, 1974*

The Senate met at 11 a.m. and was called to order by Hon. J. BENNETT JOHNSTON, JR., a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

O God, our Father, give us strength for our tasks, wisdom for our problems and perseverence in our difficulties. Hasten the day when darkness, violence, and

strife shall be banished and all men pursue the ways of righteousness and peace. Remove the causes of injustice. Make us vigilant against evil and intolerant of anything which arises when hands are not clean nor hearts pure. May Thy cleansing and redeeming grace pervade our common life, put love in our hearts, keep us in Thy service and fill our spirits with the quiet confidence of those whose Master is the Lord of Life, in whose name we make our prayer. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 28, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint J. BENNETT JOHNSTON, JR., a Senator from the State of Louisiana, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. JOHNSTON thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, February 27, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, informed the Senate that, pursuant to the provisions of section 4 (a), Public Law 92–484, the Speaker had appointed Mr. ESCH as a member of the Technology Assessment Board, to fill the existing vacancy.

The message announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes.

ORDER TO PLACE SENATE RESOLUTION 292 ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senate Resolution 292, requiring "Big Shots" to stand in line, too, which went over under the rule on yesterday, be placed on the calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished minority leader desire recognition at this time?

Mr. HUGH SCOTT. Mr. President, I have no requests to make to correct anything. It is too early in the morning and, up to now, so far as I know, I have not done anything wrong. [Laughter.]

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Michigan (Mr. GRIFFIN) is now recognized for not to exceed 15 minutes.

Mr. BEALL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. On whose time?

Mr. ROBERT C. BYRD. Against whose time, Mr. President? Against whose time would that be?

Mr. BEALL. On the time of the Senator from Michigan (Mr. GRIFFIN).

Mr. HUGH SCOTT. Against the time of the Senator from Michigan.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr President, I ask unanimous consent that the order for a quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the hour of 12 o'clock there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER TO RESUME CONSIDERATION OF S. 2705

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business, the Senate resume the consideration of the unfinished business, S. 2705.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESCISSION OF ORDERS RECOGNIZING SENATOR GRIFFIN AND SENATOR ROBERT C. BYRD

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order allotting time to the Senator from Michigan (Mr. GRIFFIN) be vacated, and I vacate my own order for recognition.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 12 O'CLOCK NOON TODAY

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 12 o'clock noon.

The motion was agreed to; and at 11:08 a.m. the Senate took a recess until 12 o'clock noon; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. CLARK).

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. CLARK). Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 5 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HUGHES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEAVE OF ABSENCE

Mr. HUGHES. Mr. President, are we currently in the hour of morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. HUGHES. Mr. President, I should like to ask if it is appropriate to proceed during morning business to ask for a necessary leave of absence on Friday, tomorrow, and Monday of next week.

The PRESIDING OFFICER. That is in order.

Mr. HUGHES. Mr. President, then I would ask unanimous consent to be excused for a necessary leave of absence on business of the Senate on Friday, tomorrow, and on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAY RAISES

Mr. HUGHES. Mr. President, since the appropriate business to be taken up during these days will probably include the question of pay raises in the governmental structure as well as in the Senate, I should like to make it clear that my absence has no relationship whatever to trying to avoid a vote on that issue.

If I were present on those days, I would intend to support either a compromise or the full increase, believing that this symbolic gesture of trying to control inflation is only a symbol and would, in effect, hurt people who should not be harmed by this, that it is within the power of the Senate, if it were to take the proper steps on other monetary measures affecting business and industry in this country, to do a thousandfold more in the control of the

inflationary spiral both in this country and abroad.

If it is the beginning step of this overall measure, and a plan were outlined to me on what we were to follow through on to bring completely under control the inflationary spiral, at least to bring it to a reasonable 3-percent or 4-percent level, then I would be inclined to support it, believing that the entire country should share that burden. But, under the circumstances, it would be my inclination not to want to deprive those on our staffs in the Government structure, the judiciary, or wherever they may be found, or ourselves, because there are those in this body itself, although they did not seek this position for its money or its benefits, who are having great economic difficulty in surviving on their salaries. If they must survive on their salaries, many have been forced to seek honorariums. Some of it has been brought into question. I would like to see that ended, but many are forced to supplement their income by writing articles or books, which takes time away from their Senate business when it is a matter of survival while they serve in the Senate. It is neither in the best interests of their States or of the country, although they are forced to do it in order to be of service.

I think the electorates will understand that and I believe they will support them to live a standard of living, whatever it is, in the District of Columbia and within their own States, in the matter of decent wearing apparel, the survival of their families—whatever it might be.

I make this brief statement merely to explain my own position and to express my regret that, unfortunately, I will be absent on Friday tomorrow, and on Monday next, and will be unable to participate in the debate on the floor of the Senate regarding this particular issue.

Thank you, Mr. President.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. HUGHES. I yield.

Mr. McGEE. Mr. President, I commend the Senator for his statement. He has analyzed the real issue at stake here very forthrightly.

What I want to append to his statement in regard to the inflationary process and the implications of this issue is very elementary. Any move that would award these pay adjustments under the recommendations sent down by the President but leave out Congress would result in a net saving this year of $6 million. That is as much money as we have to spend in the District of Columbia if we get a 2-inch snow and bail ourselves out of the kind of crisis that represents.

If there were, on the other hand, a full allowance the first year of 5.5 percent, a cost of living adjustment, without discriminating against any group at the administrative level, the total cost would be approximately $28 million to $30 million.

I think the point the Senator makes is a very good one: that the inflationary forces are the forces already underway; that they have been underway for 5 years—everybody has been caught up in them; but that this is the other end of the consequences of that runaway inflation, where all other salaried segments of the Nation's population, in the private sector or in the public sector, have received the steady increments of the cost of living adjustment in excess of 30 percent.

However, at the administrative level in Government, there has been nothing since 1969, and that has resulted in what we call compression, where administrators at all levels, who are required to be responsible and administrate the public trust in good faith are now compressed at a level that is no different than that of their employees. It is this that is being torn asunder by the various efforts to forestall some kind of reasonable adjustment at the present time.

The issue here is good government and responsible government, and not bending or panicking in the face of hostile sentiment. We have a responsibility here and are paid to stand up and make decisions in the interest of responsible government, rather than cutting and running because of a coming election.

I thank the Senator for his comments.

Mr. HUGHES. I thank the distinguished chairman of the committee that has been handling this important matter. His dedication and commitment to this work and his understanding of the question that will be before us probably is as deep and as broad as that of any other Member of the Senate.

I also point out that even if one person in the future must make a decision, one who has the capacity, the talent, and the ability—none of us can judge who that is—on the basis of economics, of living in this area, of maintaining a residence in his home State, of the travel and the incumbencies of family expense and adjustments that go with it, and is deprived of the right to seek public office, then I think our attempt at savings has been a gesture in the wrong direction.

I also point out that every Member of the Senate identifies and recognizes the devastating inflationary spiral we are in, the absolute need to control it and to do something about it, and certainly all our commitment collectively should be toward that gain and that end.

If the Senator from Iowa thought that this was a step in that direction, I would support it, but I do not believe that.

I also point out, though it may seem self-serving, that the Senator from Iowa shall not benefit from the salary increases he would have supported had he been here, because he is not seeking reelection and he is not looking to the future of receiving for himself the benefits of these increases across the board.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. JOHNSTON) laid before the Senate the following letters, which were referred as indicated:

REPORT ON PROPERTY, SUPPLIES, AND COMMODITIES PROVIDED BY THE BERLIN MAGISTRATE

A letter from the Assistant Secretary of Defense, reporting, pursuant to law, on property, supplies, and commodities provided by the Berlin Magistrate and under German Offset Agreement, for the quarter October 1, 1973 through December 31, 1973. Referred to the Committee on Appropriations.

REPORT ON DEFICIENCIES IN AN APPROPRIATION

A letter from the Chairman, Joint Committee on Judicial Administration in the District of Columbia, transmitting, pursuant to law, a report on deficiency in an appropriation (with an accompanying report). Referred to the Committee on Appropriations.

REPORT ON FINAL DETERMINATION OF CLAIM OF CERTAIN INDIANS

A letter from the Chairman, Indian Claims Commission, reporting, pursuant to law, on its final determination in respect to Docket No. 22–K, Jicarilla Apache Tribe, Plaintiff, v. The United States of America, Defendant (with accompanying papers). Referred to the Committee on Appropriations.

REPORT ON MILITARY USE OF HERBICIDES IN VIETNAM

A letter from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on military use of herbicides in Vietnam (with an accompanying report). Referred to the Committee on Armed Services.

PROPOSED LEGISLATION FROM CANAL ZONE GOVERNMENT

A letter from the Governor, Canal Zone Government, transmitting a draft of proposed legislation to amend title 6 of the Canal Zone Code to permit, under appropriate controls, the sale in the Canal Zone of lottery tickets issued by the Government of the Republic of Panama (with accompanying papers). Referred to the Committee on Armed Services.

REPORT ON DEPARTMENT OF DEFENSE PROCUREMENT FROM SMALL AND OTHER BUSINESS FIRMS

A letter from the Assistant Secretary of Defense (Installations and Logistics), transmitting, pursuant to law, a report on Department of Defense Procurement from Small and Other Business Firms, for July 1973–October 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT OF DEPARTMENT OF COMMERCE

A letter from the Secretary of Commerce transmitting pursuant to law, a report on the activities of that Department, during fiscal year 1973, relating to the Fair Packaging and Labeling Act (with an accompanying report). Referred to the Committee on Commerce.

PUBLICATION ENTITLED "STATISTICS OF INTERSTATE NATURAL GAS PIPELINE COMPANIES, 1972"

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a publication entitled "Statistics of Interstate Natural Gas Pipeline Companies, 1972" (with an accompanying document). Referred to the Committee on Commerce.

REPORT OF OVERSEAS PRIVATE INVESTMENT CORPORATION

A letter from the President, Overseas Private Investment Corporation, transmitting, pursuant to law, a report of that Corporation entitled "Possibilities of Transferring OPIC Programs to the Private Sector" (with an accompanying report). Referred to the Committee on Foreign Relations.

LIST OF REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a list of the reports of the General Accounting Office, for January, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Examination of Finan-

cial Statements of Veterans Canteen Service for Fiscal Year 1973", Veterans Administration (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improvements Needed in Managing Nonexpendable End-Item Equipment in the Air Force", dated February 1974 (with an accompanying report). Referred to the Committee on Government Operations.

REPORT ON ANTHRACITE MINE WATER CONTROL AND MINE SEALING AND FILLING PROGRAM

A letter from the Acting Deputy Assistant Secretary of the Interior, transmitting, pursuant to law, a report on Anthracite Mine Water Control and Mine Sealing and Filling Program, for the calendar year 1973 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

REPORT ENTITLED "COAL TECHNOLOGY: KEY TO CLEAN ENERGY"

A letter from the Secretary of the Interior, transmitting, pursuant to law, a report entitled "Coal Technology: Key to Clean Energy", 1973–1974 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

REPORT OF OFFICE OF WATER RESOURCES RESEARCH

A letter from the Assistant Secretary of the Interior, transmitting, pursuant to law, a report of the Office of Water Resources Research, for the year 1973 (with an accompanying report). Referred to the Committee on Interior and Insular Affairs.

REPORT ON PROJECT PROPOSALS UNDER SMALL RECLAMATION PROJECTS ACT

A letter from the Assistant Secretary of the Interior, reporting, pursuant to law, that an application for a loan in the amount of $246,263 had been received from the Gering Irrigation District of Gering, Nebraska (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

TRANSPORTATION STUDY REPORT FOR ARCHES CANYONLANDS, AND CAPITOL REEF NATIONAL PARKS, UTAH

A letter from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, a transportation study report on Arches, Canyonlands, and Capitol Reef National Parks, Utah (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION FROM THE DEPARTMENT OF THE INTERIOR

A letter from the Assistant Secretary of the Interior, transmitting a draft of proposed legislation to authorize appropriations for the saline water program for fiscal year 1975, and for other purposes (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

SUSPENSION OF DEPORTATION—WITHDRAWAL OF NAME

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, requesting that the name of Yolanda Manuela Torres-Flores, involving suspension of deportation, be withdrawn and returned to the jurisdiction of that Service. Referred to the Committee on the Judiciary.

PROPOSED LEGISLATION BY DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to extend the authority for the program known as "Project Headstart" to provide comprehensive services to aid disadvantaged pre-school children in order to enable such children to attain their full potential (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

A letter from the Acting Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Higher Education Act of 1965 to provide for increased accessibility to guaranteed student loans to extend the Emergency Insured Student Loan Act of 1969, and for other purposes (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

REPORT OF NATIONAL ACADEMY OF SCIENCE

A letter from the President, National Academy of Science, transmitting, pursuant to law, the annual report of the Academy for the fiscal year ended June 30, 1971, including a copy of the annual report of the National Academy of Engineering for the same period (with an accompanying report). Referred to the Committee on Labor and Public Welfare and ordered to be printed.

REPORT OF DEPARTMENT OF JUSTICE ON GS–16, 17, AND 18 POSITIONS

A letter from the Acting Assistant Attorney General for Administration, Department of Justice, transmitting, pursuant to law, a report on GS–16, 17, and 18 positions for calendar year 1973 (with an accompanying paper). Referred to the Committee on Post Office and Civil Service.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. JOHNSTON):

A joint memorial of the Legislature of the State of Idaho. Referred to the Committee on Commerce:

"HOUSE JOINT MEMORIAL No. 17

"A joint memorial to the Amtrak Corporation and to the House of Representatives and the Senate of the United States in Congress assembled

"We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Forty-second Idaho Legislature, do hereby respectfully represent that:

"Whereas, expansion of the Amtrak system is now under consideration and has become more desirable in view of the impact of fuel shortages on private transportation methods and the increased reliance on public transportation systems; and

"Whereas, expansion of public transportation facilities should be made to provide convenient and accessible transportation alternatives to private automobiles; and

"Whereas, southern Idaho has been entirely without passenger train service since 1971, although there is a demand for such service in order to facilitate balanced growth in the area; and

"Whereas, a route through southern Idaho would provide an essential transportation and communication link and would be economically desirable as a portion of the Amtrak system; and

"Whereas, a southern Idaho railroad passenger service would contribute to the healthy economic climate of the area and insure continued social stability and economic growth and development in Idaho.

"Now, therefore, be it resolved by the Second Regular Session of the Forty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we petition the Amtrak Corporation to reinstitute and operate rail passenger service in southern Idaho in order to sustain and promote the healthy economic climate of the area and to facilitate the transportation needs of the citizens of the region. We urge that the Amtrak Corporation give consideration to the reasonable requests for expansion of the railroad passenger line through southern Idaho at this time or expansion of general railroad passenger services.

"Be it further resolved that the Clerk of the House of Representatives be, and he is hereby authorized and directed to forward copies of this Memorial to the Amtrak Corporation and the President of the Senate and the Speaker of the House of Representatives of Congress, and to the Senators and Representatives representing this state in the Congress of the United States."

A joint memorial of the Legislature of the State of Idaho. Referred to the Committee on Interior and Insular Affairs:

"HOUSE JOINT MEMORIAL No. 18

"A joint memorial to the Federal Energy Office and to the House of Representatives and the Senate of the United States in Congress Assembled

"We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Forty-second Idaho Legislature, do hereby respectfully represent that:

"Whereas, every effort should be made to avoid undue hardship or unfair disadvantage in any particular situation during the current energy shortage; and

"Whereas, there exists a unique situation in many rural areas, traditionally served by a limited number of fuel dealers; and

"Whereas, fuel allotments are made by major distributors to their dealers based upon the sales volume in the previous year; and

"Whereas, a consequence of the energy crisis has been the closure of many dealers particularly in rural areas; and

"Whereas, the closure of these small dealers has resulted in the reduction of fuel available to the area because the allotment is then shifted to other dealers who may not serve the same area; and

"Whereas, there continues to be a demand in the area no longer served by the dealer, for the fair share of the allotment made to the dealer, as evidenced by the consumption in the previous year.

"*Resolved* Now, therefore, be it by the Second Regular Session of the Forty-second Idaho Legislature, the House of Representatives and the Senate concurring therein, that we petition the Federal Energy Office and the Congress of the United States to take cognizance of the hardship created by this situation and to take action to alleviate the condition. In no case, shall the allocation of fuel made to an individual dealer leave the area he previously served whether or not the dealer is able to remain in business. The area shall not be deprived of the fuel thus allocated on the basis of the consumption in the previous year. Be it further

"*Resolved*, that the Clerk of the House of Representatives be, and he is hereby authorized and directed to forward copies of this Memorial to the Federal Energy Office and the President of the Senate and the Speaker of the House of Representatives of Congress, and to the Senators and Representatives representing this state in the Congress of the United States."

A resolution of the Commonwealth of Kentucky. Referred to the Committee on the Judiciary:

"SENATE RESOLUTION No. 9

"Senators Clyde Middleton, Nelson Robert Allen, William R. Gentry, Jr., Gene Huff, Denver C. Knuckles, Tom Mobley, Delbert S. Murphy, Georgia Davis Powers, Joseph Prather, Gus Sheehan, Eugene Stuart, Daisy Thaler, and Danny Yocum introduced the following resolution, which was ordered to be printed.

"A joint resolution directing the United States Congress to recognize the rights of the unborn

"Whereas, the sweeping judgment of the United States Supreme Court in the Texas and Georgia abortion cases expressly deprived the unborn of legal and constitutional protection during their gestation; and

"Whereas, such judicial holding condones the destrutcion of an entire class of live human beings; and

"Whereas, in states in which abortion laws have recently been relaxed or repealed, respect for unborn human life has proved to be wholly inadequate for the reasonable protection of the lives of the unborn; and

"Whereas, a legal threat to the right of life of any individual member of a society imperials the right to life of every other member of that society; and

"Whereas, human life in all states is entitled to the protection of the laws and may not be abridged by act of any court or legislature or by any judicial interpretation of the Constitution of the United States; and

"Whereas, the issue is of such great magnitude—the extent to which human life itself is protected under the Constitution; and

"Whereas, the General Assembly of the Comr onwealth of Kentucky believes it to be in the best interest of the people of the United States that an amendment to the Constitution of the United States be adopted to protect unborn human lives, and

"Whereas, today, January 22d, marks the 1st Anniversary of this sad era in U.S. history, ushered in by these modern Dred Scott decisions of the U.S. Supreme Court on January 22, 1973: Now, therefore, be it

"*Resolved* by the General Assembly of the Commonwealth of Kentucky:

"SECTION 1. That the Congress of the United States take appropriate action to adopt a Constitutional Amendment that will guarantee the explicit protection of all unborn human life by extending the same constitutional rights, including due process of law, which apply to the unborn in the same manner and to the same extent as all other citizens of the United States, and will guarantee that no human life will be denied protection of law or deprived of life on account of age, sickness, state of development or condition of dependency or wantedness.

"SEC. 2. That the Clerk of the Senate transmit a copy of this Resolution to the President of the United States, the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, each member of the Kentucky Congressional delegation, each member of the United States Supreme Court and the Governor of the Commonwealth of Kentucky."

A joint resolution of the Legislature of the State of Montana. Referred to the Committee on Banking, Housing and Urban Affairs:

A resolution of the House of Representatives of the State of Montana requesting housing and related care facilities for the elderly

"Whereas, we have carefully studied the President's housing message of September 19, 1973 and

"Whereas, our dedication to the purposes of this organization requires that we formulate and communicate our views and positions vis-a-vis federal housing policies and programs as they relate to the housing and related needs of the low-moderate income elderly. Now, therefore, be it

"*Resolved* by the House of Representatives of the State of Montana:

"That the House of Representatives of the State of Montana representing housing and related care facilities for the elderly, makes known its views and urges actions as follows:

"1. The proposal for direct housing assistance payments to lower income individuals and families has merit and we particularly approve the President's stated intention of initially implementing this program to assist the lower income elderly. However, we support fully funding and implementation of the direct housing assistance payment plan for the elderly immediately rather than delaying it until 1975.

"2. We join with all other knowledgable authorities in giving stated recognition to the fact that the housing and related needs of the elderly are complex and manifold and, therefore, no single program can meet the needs of all of the low-moderate income elderly . . . since there are various groups of the elderly, each of which has specific and unique needs. For example, an elderly couple in their early-to-mid-sixties who enjoy good health and moderate income obviously do not have the same needs as single and widowed females in their late seventies and who often have incomes barely at subsistence level. Stated more simply, the most needful group of the elderly need not only housing but the security, companionship and independence that can only be provided by specialized housing and related care facilities.

"3. These specialized facilities represented are effectively responding to the special housing and related needs of that segment of our elderly population for whom a direct housing assistance payment would not solve their needs and desires for physical, emotional and financial security combined with the need and desire for companionship, social recreational and constructive activity in a non-institutional atmosphere which enhances dignity and independence.

"4. By far the most successful and economical federal senior housing loan program.

"5. The benefits of 202 type housing to a community have had profound impact in upgrading neighborhoods and in providing a ready talent pool to staff volunteer community programs.

"6. We strongly recommend re-institution of the 202 type approach as a primary vehicle for housing the elderly. Furthermore, we heartily recommend that a re-instituted 202 type program be made even more flexible than the old program, in the sense of allowing for a broad spectrum of devices for meeting the total needs—housing, health, social, recreational, nutritional—of our aging people. Be it further

"*Resolved*, That copies of this resolution be transmitted by the Clerk of the House of the State of Montana to the Honorable Richard M. Nixon, President of the United States, Honorable Gerald Ford, Vice President of the United States, Honorable Mike Mansfield, Majority Floor Leader of the United States Senate, Honorable Lee Metcalf, United States Senate, Congressman Richard S. Shoup, House of Representatives, Congressman John W. Melcher, House of Representatives."

A joint resolution of the Legislature of the State of Montana. Referred to the Committee on the Judiciary:

"A joint resolution of the Senate and the House of Representatives of the State of Montana declaring the Montana State Legislature's unalterable opposition to registration and confiscation of firearms

"Whereas, the right of an individual to keep and bear arms is fundamental to the preservation of freedom and is guaranteed by the Constitution of the United States, and

"Whereas, firearms are, always have been, and always will be very much a part of the way of life in the great state of Montana, and

"Whereas, the private ownership of firearms, including handguns, is the last line of defense against the criminal elements, and

"Whereas, the report of the National Advisory Commission on Criminal Justice Standards and Goals, issued in August, 1973, advocates, among other things, the confiscation of all privately owned handguns, and

"Whereas, the people of Montana having seen that federal firearm registration is leading us closer to federal confiscation of firearms. Now, therefore, be it

"*Resolved* by the Senate and the House of Representatives of the State of Montana:

"That the legislature of the state of Montana go on record as being unalterably opposed to registration and confiscation of firearms in general and specifically to the recommendations of the National Advisory Commission on Criminal Justice Standards and Goals, and be it further

"*Resolved*, That a copy of this joint resolution be sent to the President of the United States, to the Vice-President of the United States, to Montana's Senators and Representatives in Congress, and to all state legislatures."

A joint memorial of the legislature of the State of New Mexico. Referred to the Committee on Agriculture and Forestry:

"H.J. RES. No. 14

"A joint memorial requesting the Congress of the United States to enact legislation extending the authority of the United States Department of Agriculture to purchase food items at market prices for distribution to the needy and to educational and charitable institutions

"Whereas, the United States department of agriculture has had increasing difficulty in acquiring the variety and quantities of various food items that they historically have been purchasing and distributing to needy persons in households, schools operating a non-profit food program, charitable institutions, orphanages, child care centers and similar agencies serving the needy; and

"Whereas, the restrictive provisions of the Agriculture and Consumer Protection Act of 1973 imposed limitations on the variety and quantities of food that could be purchased for food distribution programs, and, to alleviate this problem, congress enacted Section 4(a) of Public Law 93-86 to authorize the department of agriculture to purchase food at market prices until June 30, 1974; and

"Whereas, an extension of Section 4(a) of Public Law 93-86 is needed to allow the food help programs for the needy, the school and institutional recipient agencies and other food programs to reap the benefits of the ability of the United States department of agriculture to purchase in volume based upon expert guidance on the availability and quality of food; Now, therefore, be it

"*Resolved* by the Legislature of the State of New Mexico that the congress of the United States be requested to enact legislation to extend the provisions of Section 4 (a) of Public Law 93-86 until June 30, 1975 or any later date; and be it further

"*Resolved*, That copies of this memorial be transmitted to the speaker of the United States house of representatives, the president pro tempore of the United States senate, Senators Brooke, McGovern and Kennedy and to the New Mexico delegation to the congress of the United States."

A joint resolution of the Legislature of the State of Ohio. Referred to the Committee on the Judiciary:

"HOUSE JOINT RESOLUTION No. 11

"Joint resolution providing for the ratification of the proposed amendment to the Constitution of the United States relative to equal rights for men and women

"*Be it resolved by the General Assembly of the State of Ohio:*

"Whereas, Both houses of the ninety-second Congress of the United States of America, at the second session of such Congress, by a constitutional majority of two-thirds of the members of each house thereof, made a proposition to amend the Constitution of the United States in the following words, to-wit:

"Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women

"'*Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when

ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"'ARTICLE

"'Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"'Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"'Section 3. This amendment shall take effect two years after the date of ratification.'; therefore be it

"*Resolved*, By the General Assembly of the State of Ohio, that the said proposed amendment to the Constitution of the United States be, and the same is hereby ratified; and be it further

"*Resolved*, That the Secretary of State of the State of Ohio be, and he hereby is directed, to deliver to the Governor of this state a certified copy of this resolution, and such certified copy shall be forwarded at once by the Governor to the Administrator of General Services, United States Government, Washington, D.C., to the President of the Senate of the United States, to the Speaker of the House of Representatives of the United States, and to the Secretary of State of the United States.

"Adopted February 7, 1974."

A joint resolution of the State of Rhode Island and Providence Plantations. Referred to the Committee on Banking, Housing and Urban Affairs:

"RESOLUTION

"Memorializing Congress to provide emergency generators in all housing for the elderly

"Whereas, The housing for the elderly in many instances are above three floors and the elderly during a power failure are unable to use the elevators, and physically unable to use the stairs, emergency generators are necessary; now, therefore be it

"*Resolved*, That the general assembly of Rhode Island and Providence Plantations, now requests the Congress of the United States to provide for emergency generators in all housing for the elderly; and be it further

"*Resolved*, That the secretary of state be and he is hereby respectfully requested and directed to transmit duly certified copies of this resolution to the President of the Senate of the United States, the Speaker of the House of Representatives, and to the Rhode Island delegation in Congress."

A concurrent resolution of the General Assembly of South Carolina. Referred to the Committee on the Judiciary:

"CALENDAR No. S. 759

"A concurrent resolution memorializing Congress to enact such legislation as will restore November 11 as the observance of National Veterans Day

"Whereas, Veterans Day is not observed uniformly by the various states; and

"Whereas, the lack of uniformity in the observance of this day has contributed to the loss of meaning, significance and reason for commemorating the great sacrifices which the veterans have made for America and its cherished freedoms; and

"Whereas, the restoration of November 11 as National Veterans Day would enable the states to program meaningful events that would restore the day to its former importance and national significance. Now, therefore,

"*Be it resolved* by the Senate, the House of Representatives concurring: That Congress be memorialized to enact such legislation as will restore November 11 as the observance of National Veterans Day.

"*Be it further resolved* that copies of this resolution be forwarded to each United States Senator from South Carolina, each member of the House of Representatives of Congress from South Carolina, the Senate of the United States and the House of Representatives of the United States."

A concurrent resolution of the Legislature of the State of South Dakota. Referred to the Committee on Finance:

"SENATE CONCURRENT RESOLUTION No. 6

"A concurrent resolution, citing legislative interest in and requesting that the Congress of the United States provide energy crisis revenue sharing funds to the various States

"Be it resolved by the Senate of the State of South Dakota, the House of Representatives concurring therein:

"Whereas, there is impending an acute shortage in available energy resources; and

"Whereas, the impact of the energy shortage threatens employment and economic growth; and

"Whereas, the total effect of the shortage upon the people and the economy is immeasurable; and

"Whereas, any economic recession resulting from the energy shortage will seriously reduce gasoline tax revenues for the State; and

"Whereas, due to the nature and method of financing the operation of State and local government, and the requirements for balanced budgets, any economic recession or unemployment may impose additional heavy taxes upon the people; and

"Whereas, it is essential that the Federal Government assist and subsidize the States during this period of energy shortage,

"Now, therefore, be it resolved, that the Forty-ninth session of the South Dakota Legislature hereby requests that the Congress of the United States proceed with dispatch to enact legislation to provide substantial energy crisis revenue sharing funds to the various States for the purpose of highway construction and maintenance based on the following formula:

"(1) Ten percent of the appropriation to be divided equally among the fifty (50) States;

"(2) Forty-five (45) percent of the total appropriation to be divided among the states on the basis of short-fall in energy supply using 1972 as the base year; and

"(3) The remaining forty-five (45) percent of the appropriation to be divided among the states, based upon each state's share of unemployment attributable to the energy crisis.

"Be it further resolved that a copy of this resolution be forthwith forwarded to the President, members of the Congress, and the Governors of the States.

"Adopted by the Senate, February 5, 1974.

"Concurred in by the House of Representatives, February 11, 1974.".

A joint resolution of the Legislature of the State of Wisconsin. Referred to the Committee on Veterans' Affairs:

"SENATE JOINT RESOLUTION 43

"Enrolled joint resolution memorializing the Congress to restore cutbacks in veterans benefits as a result of recent changes in the social security act

"Whereas, all recipients, veterans and widows, who received the social security increase as of January 1, 1973, suffered a reduction in their Veterans Administration pension; and

"Whereas, approximately 20,000 persons nationally were completely cut off from VA pension benefits because the increase in social security caused their income to exceed the maximum allowable annual income; and

"Whereas, the 2 previous social security increases contained provisions for not affecting pension payments, while this most recent social security measure made no such provision; and

"Whereas, this cutback in Veterans Administration benefits completely defeats the purpose of the social security increase to help persons living on fixed incomes and limited finances to combat rising inflation; now, therefore, be it

"*Resolved by the senate, the assembly concurring*, That the Wisconsin legislature respectfully petitions the Congress of the United States to amend the Veterans Administration pension law to provide that the social security increase, effective January 1, 1973, shall not affect pension payments; and, be it further

"*Resolved*, That retroactive payments be made to make up the loss in pension benefits incurred since January 1, 1973; and, be it further

"*Resolved*, That duly attested copies of this resolution be transmitted to the secretary of the U.S. senate, to the chief clerk of the U.S. house of representatives and to every member of the congressional delegation from Wisconsin."

A resolution adopted by the Chicago Committee on Urban Opportunity, Chicago, Ill., praying for the continuance of funds to support the Community Action Program. Referred to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Res. 236. Resolution authorizing additional expenditures by the Committee on Agriculture and Forestry for inquiries and investigations (Rept. No. 93–702);

S. Res. 242. Resolution relating to the Special Committee on the Termination of the National Emergency (Rept. No. 93–715);

S. Res. 256. Resolution authorizing additional expenditures by the Committee on the District of Columbia for inquiries and investigations (Rept. No. 93–704);

S. Res. 258. Resolution authorizing additional expenditures by the Committee on Aeronautical and Space Sciences for inquiries and investigations (Rept. No. 93–705);

S. Res. 259. Resolution authorizing additional expenditures by the Committee on Labor and Public Welfare for inquiries and investigations (Rept. No. 93–707);

S. Res. 264. Resolution to provide for additional expenses for the Committee on Post Office and Civil Service (Rept. No. 93–708);

S. Res. 268. Resolution authorizing additional expenditures by the Committee on Government Operations for routine purposes (Rept. No. 93–698).

S. Res. 270. Resolution authorizing additional expenditures by the Committee on Armed Services for inquiries and investigations (Rept. No. 93–706); and

S. Res. 286. Resolution to increase the sums allotted to the Senate Select Committee on Presidential Campaign Activities (Rept. No. 93–716).

By Mr. CANNON, from the Committee on Rules and Administration, with an amendment:

S. Res. 241. Resolution authorizing additional expenditures by the Committee on Foreign Relations for a study of matters pertaining to the foreign policy of the United States (Rept. No. 93–709);

S. Res. 245. Resolution authorizing additional expenditures by the Committee on

Interior and Insular Affairs for inquiries and investigations (Rept. No. 93–710);

S. Res. 250. Resolution authorizing additional expenditures by the Committee on Veterans' Affairs for inquiries and investigations (Rept. No. 93–717);

S. Res. 260. Resolution continuing and authorizing additional expenditures by the Select Committee on Nutrition and Human Needs (Rept. No. 93–718);

S. Res. 261. Resolution authorizing additional expenditures by the Committee on Public Works for inquiries and investigations (Rept. No. 93–719);

S. Res. 262. Resolution authorizing additional expenditures by the Committee on Commerce for inquiries and investigations (Rept. No. 93–711);

S. Res. 263. Resolution authorizing additional expenditures by the Select Committee on Small Business (Rept. No. 93–720); and

S. Res. 277. Resolution authorizing the printing of additional copies of a committee print entitled "Protecting Older Americans Against Overpayment of Income Taxes" (Rept. No. 93–699).

By Mr. CANNON, from the Committee on Rules and Administration with amendments:

S. Res. 240. Resolution authorizing additional expenditures by the Committee on Banking, Housing and Urban Affairs for inquiries and investigations (Rept. No. 93–703);

S. Res. 255. Resolution authorizing additional expenditures by the Committee on the Judiciary for inquiries and investigations (Rept. No. 93–714);

S. Res. 267. Resolution providing that the Special Committee on Aging is continued in existence as a permanent special committee and authorizing additional expenditures therefor (Rept. No. 93–713);

S. Res. 269. Resolution authorizing additional expenditures by the Committee on Government Operations for inquiries and investigations (Rept. No. 93–712).

By Mr. SPARKMAN, from the Committee on Foreign Relations, with an amendment:

S. 2662. A bill to authorize appropriations for United States participation in the International Ocean Exposition '75 (Rept. No. 93–700).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. SPARKMAN, from the Committee on Foreign Relations:

William S. Mailliard, of California, to be the Permanent Representative of the United States of America to the Organization of American States, with the rank of Ambassador.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nomination of Lt. Gen. Robert E. Pursley, USAF, to be placed on the retired list in that grade. I ask that this name be placed on the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. THURMOND:

S. 3079. A bill to designate November 11 of each year as Veterans Day and to make such day a legal public holiday. Referred to the Committee on the Judiciary.

By Mr. TAFT:

S. 3080. A bill to amend the Federal Salary Act of 1967 by removing of Members of Congress from the Commission on Executive. Legislative, and Judicial Salaries. Referred to the Committee on Post Office and Civil Service.

By Mr. SPARKMAN (by request):

S. 3081. A bill authorizing appropriations for Peace Corps. Referred to the Committee on Foreign Relations.

By Mr. THURMOND:

S. 3082. A bill for the relief of Fidenciana MONTES Montes. Referred to the Committee on the Judiciary.

By Mr. HARTKE:

S. 3083. A bill to stabilize the price of propane, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. McGOVERN:

S. 3084. A bill to authorize supplemental appropriations for the Department of Agriculture. Referred to the Commitee on Agriculture and Forestry.

By Mr. METCALF:

S. 3085. A bill to provide for the development of certain minerals on public lands; and for other purposes; and

S. 3086. A bill to establish a system for the development of mineral resources on public lands of the United States. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOMENICI (for himself and Mr. MONTOYA):

S. 3087. A bill to designate certain lands in the Bosque del Apache National Wildlife Refuge, Socorro County, N. Mex., as wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. TAFT:

S. 3088. A bill to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes. Referred to the Committee on Labor and Public Welfare.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND:

S. 3079. A bill to designate November 11 of each year as Veterans Day and to make such a day a legal public holiday. Referred to the Committee on the Judiciary.

Mr. THURMOND. Mr. President, prior to 1971, November 11 was officially set aside as a legal holiday to honor the Americans who have served in our armed services in defense of freedom around the globe. November 11 was originally selected as Veterans Day for it was on this day in 1918 that the Armistice was signed which ended World War I.

In 1971, the designation of Veterans Day was changed so that the legal holiday would fall on the fourth Monday of October. The date of November 11 was thus stripped of its officially sanctioned recognition. However, Mr. President, to millions of Americans, November 11 will always be Veterans Day. The change in the legal designation cannot erase the significance of this date, nor can an extra 3-day weekend justify a reduction in the tribute paid to American veterans by a grateful nation.

Veterans Day deserves the highest recognition possible. Millions of Americans have sacrificed their time, their talents and their lives to secure and strengthen the ideals of liberty, freedom, and democracy which gave birth to our Nation. These Americans—our veterans—have earned the respect, gratitude, and recognition of their fellow countrymen. Their contribution to America is unique and America's tribute to them should be equally unique. For these reasons, Mr. President, I am today introducing legislation to reinstate the date of November 11 as Veterans Day. I am hopeful that the Congress will give this legislation prompt and favorable action.

Mr. President, on February 20, 1974, the General Assembly of South Carolina passed a concurrent resolution to memorialize the Congress of the United States to enact legislation to restore November 11 as the official observance of National Veterans' Day.

The general assembly has provided me a copy of this resolution and requested that it be called to the attention of the Senate.

Veterans' Day was changed from November 11 to the fourth Monday in October by legislation in 1968, and 31 State legislatures, including South Carolina, have since enacted laws observing Veterans' Day within their jurisdictions on November 11.

In President Nixon's message to the Congress on veterans, he also urged the passage of legislation to restore November 11 as the official National Veterans' Day.

On behalf of the junior Senator from South Carolina (Mr. HOLLINGS) and myself, I call this concurrent resolution to the attention of the Senate and request my colleagues to give it most careful consideration.

Mr. President, I ask unanimous consent that this concurrent resolution be printed in the RECORD at the conclusion of my remarks.

There being no objection, the concurrent resolution was ordered to be printed in the RECORD, as follows:

A CONCURRENT RESOLUTION MEMORIALIZING CONGRESS TO ENACT SUCH LEGISLATION AS WILL RESTORE NOVEMBER 11TH AS THE OBSERVANCE OF NATIONAL VETERANS DAY

Whereas, Veterans Day is not observed uniformly by the various states; and

Whereas, the lack of uniformity in the observance of this day has contributed to the loss of meaning, significance and reason for commemorating the great sacrifices which the veterans have made for America and its cherished freedoms; and

Whereas, the restoration of November eleventh as National Veterans Day would enable the states to program meaningful events that would restore the day to its former importance and national significance. Now, therefore,

Be it resolved by the Senate, the House of Representatives concurring: That Congress memorialized to enact such legislation as will restore November eleventh as the observance of National Veterans Day.

Be it further resolved that copies of this resolution be forwarded to each United States Senator from South Carolina, each member of the House of Representatives of Congress from South Carolina, the Senate of the United States and the House of Representatives of the United States

---

By Mr. SPARKMAN (by request):

S. 3081. A bill authorizing appropriations for Peace Corps. Referred to the Committee on Foreign Relations.

Mr. SPARKMAN. Mr. President, by request, I introduce for appropriate reference a bill to authorize appropriations for the Peace Corps.

The bill has been requested by the Director of ACTION and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when it is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Director of ACTION to the President of the Senate dated February 11, 1974.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3081

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

The first phrase of section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)), ending with a colon, is amended to read as follows:

"There are authorized to be appropriated for fiscal year 1975 not to exceed $82,256,000 to carry out the purposes of this Act."

SEC. 2. Section 3 of the Peace Corps Act (22 U.S.C. 2502) is amended by adding at the end thereof the following new subsection:

"(c) In addition to the amounts authorized for fiscal year 1975 there are authorized to be appropriated for the Peace Corps for fiscal year 1975 such additional amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

"(d) The Director of ACTION is authorized to transfer to the readjustment allowance, ACTION, account at the Treasury Department from any sums appropriated to carry out the purposes of this Act in fiscal year 1975 not to exceed $315,000 to rectify the imbalance in the Peace Corps readjustment allowance account for the period March 1, 1961 to February 28, 1973.

"(e) The Director of ACTION is authorized to waive claims resulting from erroneous payments of readjustment allowances to Peace Corps Volunteers who terminated their Volunteer service between March 1, 1961 and February 28, 1973, notwithstanding the provisions of 5 U.S.C. 5584, and notwithstanding the fact that the names of the recipients of such overpayments may be unknown.

"(f) Disbursing and certifying officers of the Peace Corps and ACTION are relieved from liability for improper or incorrect payments of readjustment allowances made to Volunteers between March 1, 1961 and February 28, 1973, other than any cases known to have resulted from fraud, notwithstanding the provisions of 31 U.S.C. 82 a–2, c."

ACTION,
Washington, D.C., February 11, 1974.

Hon. GERALD FORD,
President of the Senate, U.S. Senate, Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration is draft legislation which will enable the Peace Corps to continue its work on behalf of world peace and understanding.

This legislation will authorize the appropriation of $82,256,000 for the Peace Corps in Fiscal Year 1975. It also will provide for a contingency authorization in the event of increases in Federal employee salaries and benefits during Fiscal Year 1975.

The authorization of appropriations in this legislation will enable the Peace Corps to train an estimated 4,800 Volunteer applicants in the coming fiscal year as opposed to 4,700 in training this year. The estimated total number of Volunteer man-years will increase from 6,490 in Fiscal Year 1974 to 6,800 in Fiscal Year 1975.

The Peace Corps will continue in 1975 to seek a more effective and more economical way to recruit, select, train, program and support volunteers.

The legislation would amend the Peace Corps Act to authorize the transfer of not more than $315,000 from the funds appropriated for Fiscal Year 1975 to the readjustment allowance deposit fund of the Treasury Department. The need for this provision arises because of a series of apparent overpayments of readjustment allowance to former Volunteers, and accounting errors in the readjustment allowance account from 1961 through February 28, 1973. Although the average amounts of overpayments or erroneous transactions are small, the cumulative effect over a period of 12 years has resulted in an imbalance in the readjustment allowance account of approximately $315,000. The proposed transfer of this amount to the Treasury deposit account would rectify the imbalance. We have been working with the Comptroller General of the United States in an effort to resolve the problems that have caused this imbalance, and are confident that the procedures we have now implemented will assure that we will not incur an imbalance again. The Comptroller General has advised us, however, that we will require legislative authorization to replenish the readjustment allowance account.

The legislation would also amend the Peace Corps Act to provide authority for the Peace Corps to waive certain claims against former Volunteers who served between the years 1961 and February 28, 1973. It would similarly relieve agency certifying and disbursing officers from liability, other than in cases involving fraud, for erroneous fiscal transactions in the Peace Corps Volunteer readjustment allowance account during the same period. The need for these provisions has arisen because the Peace Corps is unable to determine the identity of individual Volunteers who may have received overpayments of readjustment allowance between 1961 and February 28, 1973, or to specify which employees may have been responsible for these transactions during the same period.

The Office of Management and Budget had advised that enactment of this legislation would be in accord with the program of the President.

Sincerely yours,

MICHAEL P. BALZANO,
Director.

By Mr. HARTKE:

S. 3083. A bill to stabilize the price of propane, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

PROPANE GAS

Mr. HARTKE. Mr. President, today I am introducing legislation which will effectively roll the now extraordinarily high price of propane gas back to the level it had reached on January 1, 1973. In the State of Indiana over the past 18 months, the price of propane has increased 300 percent, from 18 to 54 cents per gallon. I also note with gravity that there is an enormous discrepancy in propane prices across the State. Different dealers have as much as a 200-percent difference in prices in the same region.

In my investigation of this problem, and in discussing the issue with the Federal Energy Office, I found general agreement that the rapid increase in propane prices was not caused by a shortage of the commodity nor by increased costs in its production. Soaring prices are the result of a loophole in the Cost of Living Council guidelines which permit a high percentage of the added cost of the total refining process of crude oil to be passed through to propane even though propane represents but a small portion of the end product of the refining process.

On January 30, 1974, the Federal Energy Office recognized this loophole and issued new regulations restricting the increased production costs which may be allocated to propane during any 12-month period following January 31, 1974, to no greater percentage of the total amount of increased costs incurred during that period than the percentage of the total sales volume of propane the refiner bears to the total sales volume of all covered products of the refiner. Previously refiners had been allocating a large portion of the production cost increases to propane in spite of the fact that propane gas is a minor percentage of the final product of the refining process; the result was a 200- to 300-percent rise in the wholesale price in a period of months.

Unfortunately, the new regulations do nothing more than slow the continuing rise in propane prices, and are, therefore, totally inadequate. On January 31, 1974, the retail price was already around 53 cents a gallon in many areas. The slowing of future price increases will be little consolation to senior citizens who are now spending up to 40 percent of their disposable income on fuel.

These totally unjustified higher prices for propane are not just a problem for Indiana. Similar price increases have been rampant throughout all the midwestern and southern parts of our country. The tragedy of it is that the rural poor are hit hardest and these are the people who suffer the most and can least afford it.

Propane gas is mainly used in Indiana for heating and cooking in rural areas, as well as for drying crops. I ask unanimous consent at this time that a chart showing the sales of propane gas and ethane by States and principal uses in 1972 be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

SALES OF LP GAS AND ETHANE, BY STATES AND PRINCIPAL USES, 1972

(In thousands of gallons)

	Residential/ commercial	Internal combustion	Industrial [1]	Utility gas	All other uses [2]	Total [3]
Alabama	285,694	12,963	15,309	311	2,069	316,346
Alaska	4,641		3,463			8,104
Arizona	44,778	8,569	1,959		4,562	59,868
Arkansas	373,769	99,424	19,280		12,751	505,224
California	228,328	45,213	112,712	31,934	40,746	458,933
Colorado	185,203	24,578	5,865	2,580	7,580	225,806
Connecticut	42,242	2,765	20,455	16,458	1,309	83,229
Delaware	20,473	2,514	1,394	728	1,390	26,499
Florida	279,372	22,575	12,794	12,962	2,863	330,566
Georgia	212,685	11,564	11,154	4,538	25,356	265,297
Hawaii	23,739	2,274	3,877	9,802		39,692
Idaho	45,387	2,221	6,677		4,753	59,038
Illinois	478,042	58,045	73,749	9,128	33,881	652,845
Indiana	358,578	13,374	19,756	496	20,698	412,902
Iowa	373,935	6,260	24,421	9,126	18,270	432,012
Kansas	238,928	41,309	15,688		5,669	301,594
Kentucky	183,771	6,829	17,648	5,357	1,735	215,340
Louisiana	149,618	42,870	162,773		8,922	364,183
Maine	21,802	377	5,118	3,618	164	31,079
Maryland and District of Columbia	57,539	4,776	11,712	15,583	1,109	90,719
Massachusetts	51,780	4,022	11,991	19,371	2,781	89,945
Michigan	289,068	9,105	14,017	5,555	2,313	320,058
Minnesota	375,199	11,951	35,516	6,150	8,626	437,442
Mississippi	276,478	59,893	24,285	5,130	7,203	372,989
Missouri	469,607	9,105	18,965	15,772	3,892	517,341
Montana	54,074	8,352	8,867		300	71,593
Nebraska	197,154	25,040	13,243	13,094	3,700	252,231
Nevada	28,069	984	3,290			32,307
New Hampshire	29,978	628	2,788	13,742	899	48,035
New Jersey	45,616	11,815	51,222	13,399	982	123,034
New Mexico	102,947	34,332	9,293		2,073	148,645
New York	158,852	15,460	40,696	3,058	4,662	222,728
North Carolina	153,505	10,447	25,655	1,019	23,964	214,590
North Dakota	65,142	285	7,548	3,273	694	76,942
Ohio	232,069	19,349	36,799	17,061	6,682	311,960
Oklahoma	289,587	59,290	25,153		1,619	375,649
Oregon	39,920	2,087	5,101		3,880	50,988
Pennsylvania	100,092	17,221	57,348	19,953	2,945	197,559
Rhode Island	8,176	3,519	3,346	2,767	164	17,972
South Carolina	96,855	9,301	22,212	5,534	7,361	141,263
South Dakota	110,716	6,968	5,696	7,142	1,735	132,257
Tennessee	129,218	9,675	5,222	2,975	540	147,630
Texas	758,535	700,146	61,856	5,662	13,593	1,539,792
Utah	41,474	952	5,261		3,675	51,362
Vermont	23,165	251	1,115	4,806		29,337
Virginia	79,033	7,290	15,616	9,758	5,971	117,668
Washington	43,313	4,264	6,015	572	3,304	57,468
West Virginia	17,714	1,760	14,500			33,974
Wisconsin	313,497	10,528	33,373	4,067	6,822	368,287
Wyoming	62,983	16,706	12,470		1,361	94,520
Total	8,253,340	1,479,190	1,124,263	302,481	315,568	21,833,700

[1] Includes refinery fuel of 610,890,000.

[2] Includes secondary recovery of petroleum.

[3] Does not include uses for chemical and synthetic rubber. These sales are included in national totals.

Source: Bureau of Mines.

Mr. HARTKE. My legislation would solve the problem of these tremendously inflated propane prices by providing that a refiner could charge no more for propane than the price of the gas on January 1, 1973, which was slightly over 5 cents in most cases. He could also charge, however, a small percentage of the increases of the cost of refining which have occurred since 1973. The added cost which could be passed through to propane consumers, however, would only be those cost increases which are related to the production of propane. Since that propane, which is produced from crude oil, represents less than 5 percent of the byproduct refining per barrel of crude, the added costs of production passed through to propane consumers should be less than 5 percent of the total increase in the cost of refining that barrel of crude. Much of the actual propane production, however, is not associated with the refining process. It comes from natural gas, and the actual cost of producing it, if anything, should rise even less than that for crude oil production.

My legislation would not only prohibit the passthrough of unrelated refining costs to propane consumers, but it would also roll back the price by permitting the sale of propane from the date of enactment at a price which reflects the January 1, 1973, price level as well as the portion of the added cost of refining crude oil since that time. The January 1, 1973, base price period was selected, because at that time the majority of the companies were selling propane at the same base price, 5.13 cents a cubic foot. By using this base price, the adjusted price of propane from various companies would, in the end, be nearly equal with differences attributable only to the different costs of operation of each company.

The bill I am proposing would merely return propane to its fair market level. It does not interfere with the free market economy, but attempts to remove the distortion caused by artificial price controls on oil products.

The only parties who would be injured by this bill would be businesses and individuals who have been hoarding high priced propane for reasons of speculation. The Federal Energy Office estimates that 15 to 20 percent of the nearly 350 million barrels of propane used in 1973 were held for speculation by middlemen.

I would also like to point out that since the margin that the retailer can charge on propane is controlled, he does not make any greater profit selling propane at 56 cents than at 11 cents. Since the tremendous price increases, the retailer's business has shrunk and his profits have been reduced. Unless the prices are cut and business picks up again, many propane gas dealers will be going out of business.

The need for this legislation is obvious. Propane consumers simply cannot afford to pay the exorbitant prices for propane. Some of the rural poor are being asked to pay between $100 and $200 per month just to heat their homes. This bill will get propane prices back to a reasonable level and remedy the inequities that have resulted from past regulations and controls.

Mr. President, I ask unanimous consent to have the text of my bill printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3083

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(k) Upon the enactment of this subsection, the President or his delegate shall issue an order—

(1) stabilizing the wholesale and retail prices of propane at their respective market price levels on January 1, 1973; and

(2) permitting adjustments in such prices to reflect cost increases or decreases which are related to the production and distribution of propane, and which are, or have been incurred after January 1, 1973."

By Mr. McGOVERN:

S. 3084. A bill to authorize supplemental appropriations for the Department of Agriculture. Referred to the Committee on Agriculture and Forestry.

AGRICULTURE AND SOLAR ENERGY

Mr. McGOVERN. Mr. President, I introduce for appropriate reference a bill designed to refine and accelerate the development of solar energy for farm use.

Anyone who has worked the land for a living is well aware that without the blessings of the Sun, the bounty of the fields would be unknown. Man's ability to predict and adapt to the length of the growing season, his talent for making the most of the available rainfall, and his understanding of the manufacture of protein in sunlight are all principal factors in his ability to feed the planet.

It is, therefore, not surprising that some of the most productive pioneering efforts in solar energy technology have taken place on the farm. For example, Michigan State University's Agricultural Engineering Department has conducted studies of solar energy availability, collection, and storage for farm use. The University of Minnesota's Department of Mechanical Engineering has been working on the design of solar collectors and the use of the energy for drying crops. Purdue University's Agricultural Engineering Department has studied solar-

powered fence chargers and solar refrigeration of livestock shelters. In Brookings, S. Dak., Bill Peterson, Extension Agricultural Engineer at South Dakota State University, has designed a system which uses solar heat to dry shelled corn in the bin. The system uses thin aluminum surplus lithographic plates from the DeSmet News and transparent plastic to dry corn at a cost of 2.4 cents per bushel.

One of the most exciting efforts into the promise of solar energy is underway in Canada where researchers at McGill University are clearly aware that the first beneficiary of solar energy development can be the farmer. According to a Brace Research Institute publication, some significant results have already been achieved. They include:

The development of an accurate low-cost instrument for the measurement of daily solar radiation.

The development of a number of low-cost, family-sized, solar-energy-powered devices for drying crops, cooking, and providing hot water for household uses.

The development of several large agricultural crop dryers using solar energy.

The development of a low-cost, small-scale, wind-powered water pumping unit.

The development of solar energy stills with greenhouses for use in arid areas to conserve fresh water.

In addition, they intend to proceed with the development of sound and relevant engineering equipment to meet water and food requirements in rural, arid regions.

The Brace Research Institute is currently putting together a manual on solar agricultural dryers under a grant from the Canadian International Development Agency. The manual will consist of a theoretical evaluation of the air heating and drying processes and will include illustrated descriptions of different equipment which has been developed all over the world. As a result, the reader, in whatever area a solar energy dryer might serve a function, might be able to construct models which fit both his requirements as well as those dictated by climate and the type of material to be dried. These efforts were undertaken to find a solution to the problem of water desalinization in underdeveloped countries. But they have paid rich dividends in solar energy technology and I am confident that similar efforts conducted in the United States would also benefit our country, until now, one of the most underdeveloped nations in the world in terms of domestic use of solar energy.

Throughout the world, solar energy is being put to innovative use. For example, the Australian Minister for Science, William Morrison, has decided to coordinate all the more or less casual investigations of solar energy into one integrated, imaginative program under the Commonwealth Scientific and Industrial Research Organization. It is thought that 40 billion Australian dollars, equivalent to $60 billion in U.S. currency, will be needed to provide solar heat for 25 percent of the Australian homes by the end of the century. This would require an investment annually of 2 to 3 percent of the gross national product. They are also developing a basic concept to tap the solar energy stored in trees by developing and then converting the plant to a liquid fuel, such as ethanol, as a substitute for gasoline. Australia is a nation rich in untapped mineral wealth. Yet, they have the vision to undertake an immediate program to provide for the long-term development of solar energy. We could learn a valuable lesson from their example.

Additional research into the advantages of solar energy are underway in other countries as well. An excellent summary of these efforts is contained in a television broadcast prepared by the BBC entitled, "The Sunbeam Solution." I ask unanimous consent that a transcript of that broadcast be included at the conclusion of my remarks in order to provide a clearer picture of what can be done when a serious effort is made to harness the energy of the Sun.

I have long been interested in the development of solar energy as a practical energy source. Last year, for example, I introduced a bill that provided for the expeditious development of solar energy and hydrogen. In addition, I cosponsored legislation to provide for demonstration buildings cooled and heated by solar energy.

Today I am introducing legislation that will focus special attention on one particular area of urgent need. It would provide for the accelerated development of solar energy on the farm.

The measure has three parts. First, it would provide a mechanism for studying the feasibility of granting tax deductions including deductions for greenhouses, agricultural dryers, and windmills used for irrigation and electrical generation.

Second, it would provide funds for the establishment of a solar energy research center specializing in agricultural affairs. It would serve as a repository for the expanding amount of data on the role of solar energy in drying crops, information on improved protein yields in cattle feed, and for other new developments in solar-agricultural research. If we follow the Canadian and Australian examples and improve on them, we can move at once to find useful methods of harnessing the energy of the Sun to the work of the farm with the entire Nation benefiting in the long run.

Finally, the bill provides funds for Government-subsidized research into the special needs of the farmer to which solar energy might be useful.

Mr. President, I am confident that with foresight and a decision to commit adequate Federal resources to solar energy development, we can put the Nation on the road to clean, efficient, versatile, and plentiful fuel for all generations to come.

I ask unanimous consent that the text of my bills be included in the RECORD at this point, along with the other inserts mentioned previously.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3084

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the Department of Agriculture Solar Energy Research and Development Supplemental Appropriations Authorization Act.

FINDINGS AND DECLARATION OF PURPOSE

SEC. 1(a) The Congress hereby finds and declares—

(1) Whereas, the United States had inadequately provided for the serious development of solar energy as a major energy source, and

(2) Whereas, no central facility exists in the United States for research, examination, testing, and development of solar energy equipment as it relates to the special needs of agriculture, and,

(3) Whereas, the Federal government has provided no incentive for the accelerated development of solar energy apparatus for agriculture use, and,

(4) Whereas, the serious, practical, and scholarly development of agricultural apparatus and solar technology will benefit not only the farmer but the nation in general;

SEC. 2(a) There is hereby authorized to be appropriated for the United States Department of Agriculture for the fiscal year ending June 30, 1975, the following sums:

(1) $200,000 for a feasibility study exploring the design, location, and objectives of a central research facility and information exchange center for solar energy agricultural research.

(2) $25,000,000 for distribution through grant allocation for accelerated research into the practical application of solar energy to agricultural affairs.

(3) $35,000 to investigate and make recommendations on the feasibility of granting tax deductions for the construction and installation of solar crop dryers, greenhouses, windmills, and other facilities which harness the energy of the sun for the needs of the farm.

THE SUNBEAM SOLUTION

COMMENTATOR. "If wars were fought with sunbeams the world would have had solar energy years ago."

The sun has always been our source of energy. Plants and animal organisms have flourished on it, not only giving us food, but storing it in the ground for us to draw out as coal and gas and oil. The discovery of these fuels enabled the human race to expand rapidly—never more so than in the last hundred years. It gave us the power to extend our technology to achievements unimaginable a century ago. Now the sun may be the only source of energy we will have left—as fossil fuels become depleted and as arguments about safety, hold back the flood of nuclear power.

Our only way out may be to go back—back to the sun.

But how important is it to us to find a solution? Is it really top priority? Couldn't we use a little less? How much energy do you use?

If you drive a European car, you consume more than the weight of your car in petrol every year.

The same energy would take you twice as far if you went by train.

By air you could only travel a quarter of the distance; so air transport involves very high energy consumption.

Heating is a universal consumer of energy—electricity being less efficient than the more basic fuels. Every time you push a knob you consume energy. Even every object you own needed energy to make it. It even required a great deal of energy to make the television programme you are watching.

KLANGERS. It's going into the hatch—where is it going to?

COMMENTATOR. Where is it going to? Most of it turns into heat. It heats up the objects and the air around us and finally dissipates into the atmosphere where we can't get at it to use again. Most of it is therefore wasted.

Sometimes we use energy only when we need it.

Sometimes it is consumed continuously—when nobody is needing it.

We don't really care where energy comes from. We're happy just to flick a switch. That switch burns gas, oil, coal and increasingly, uranium.

Now that we have run into severe energy problems, people are beginning to look more closely. Dr. John Holdren has written a book about energy.

Dr. HOLDREN. Many of our problems in the energy area have been caused by restricting our technical options too narrowly, that is, we've put all our eggs in one or two baskets, we've relied far too heavily on petroleum, on coal, and now it looks like we're heading in the future to relying too heavily on nuclear fission. What we really ought to do, to be sure of adequate flexibility to meet energy needs in the future, while minimising environmental problems, is to investigate a much wider array of technical options. We should be looking at solar energy, we should be looking at geothermal energy, we should be looking at fuel cells, we should be looking at magneto hydrodynamics, we should be looking at converting garbage and agricultural waste to fuel that we can burn in our power plants. It's a wide variety of things that can, and I think will be explored.

COMMENTATOR. So let's have a look at some of these options. To begin with, it would seem obvious to return to the sun, the original source of all terrestial energy. The power that drives the sun is constructive; this star is building itself up through a process of nuclear fusion—the very opposite of nuclear fission which involves smashing heavy atoms apart, fusion is the merging of light elements at very high temperatures and densities at the centre of the sun. The violent process is held in place by the sun's massive gravitational fields.

MAN. Starting to charge.

COMMENTATOR. Scientists in Russia, Britain and America are trying to recreate this process on earth.

MAN. 40. We're charging. 60 almost charged complete. Charge complete.

COMMENTATOR. And that's it. The flash lasted three millionths of a second. If that could be kept going, we would have enough energy for everyone—because the fuel is an isotope of hydrogen found in water.

The trouble is, creating fusion is a very complicated process. First you have to force your two nuclei together—the resultant squirt of energy might then be harnessed. The difficulty arises because they have no desire to be fused—You have to overcome their mutual repellance. An exact head-on collision at great speed is required and the chances of this are slight unless you can keep the particles together moving at great speed in a highly dense area.

And that is the problem—the problem of containment. The nuclei would pass straight through any physical barrier so magnetic fields are used to contain them.

Many types of magnetic field have been tried but, because the particles travel at such high speeds and high temperatures, they escape quickly at the slightest sign of instability. Multiple magnetic fields are interwoven in increasing complexity, in an attempt to keep the prisoners in.

There are elements of wizardry and magic about fusion. The latest machine involves suspending this ring in space, forming a super-heated plasma around it, and passing a huge current through it—all without touching it in any way. This is totally new technology which relates to nothing man has ever tried before. It is almost like bulding a time machine. Fusion has to keep going for a specific period, with the plasma at a specific density and at a specific temperature. No machine has yet achieved all three of these targets at once. Theoretically, there are enormous advantages in fusion but Dr. Pease, who leads the British contingent at Culham Laboratories, is aware of the problems.

Dr. PEASE. The main disadvantage of course is that we haven't got it yet, and indeed, since we're still in the research stage we certainly can't promise for certain that the methods we're doing at the moment will be successful, but we certainly think it's worth carrying out research, and we're carrying it out because we're confident that we think that success will be met by our methods.

COMMENTATOR. This is what a fusion reactor might look like. Recently the British fusion programme has received an injection of new money and the pressure for more power is so great that they have been asked to design an imaginary but possible reactor for producing electricity.

The fusion people are agreed that the most likely shape is a doughnut, but, as if in demonstration of how primitive the state of the art is, one laboratory in America has gone right back to the beginning and is trying containment by vortex.

This is still at the plastic model stage, but it could well work—no one knows. The advantages of fusion lie in its cheap, inexhaustible fuel and its safety in operation—a fusion reactor couldn't blow up or melt down. There is some nasty material called Tritium, involved, which it should be possible to keep within the power plant, and there is some radioactive waste, though far less than in fission. The real question is whether fusion is the answer to all our energy ills. Could everybody have it? Anywhere in the world?

Dr. PEASE. It's a rich man's club—or rich country's club to this extent, first of all that the rich countries are generally those that are using the most energy, and therefore they are the most interested in providing themselves with long-term inexhaustible reserves of energy, but it's also a rich man's area in the sense that that combination of engineering and physics research which we've developed in this country over the past 40 or 50 years, and which the Americans have also developed, and which the Russians have, is peculiarly necessary for this type of research.

COMMENTATOR. The power of the sun on earth. Do we really need it? Some people are suggesting we should leave the fusion reactor a nice, safe, 93 million miles away.

Surely we should be able to harness the power from here? Perhaps by means of a solar satellite? In a high synchronous orbit, it would sit in the sunshine day and night, unaffected by cloud.

Three American companies are working privately on this. Dr. Peter Glaser, Project Director of one of these companies, explains how it is done.

Dr. GLASER. We can place a satellite in orbit, such as this one, which converts solar energy directly into electricity, and we then use electricity to generate microwaves, beam them back to earth, where we then receive them, and convert them back into electricity. And here we have a flexible panel of solar cells which we believe we can produce in very large areas to cover the square miles that we're thinking of for this particular satellite.

COMMENTATOR. Solar cells were used successfully to power the Apollo space craft, but the ones in Skylab are part of the system which has been causing so much trouble. What about the microwave beam?

Dr. GLASER. Microwaves have been generated for at least 50 years, and today they're in commercial use for things like tv, microwave communications and microwave ovens. There are rather simple devices as you can see, and one of these can produce anywhere from a few kilowatts to hundreds of kilowatts of microwave power. The fact that microwaves actually can transmit power has already been demonstrated ten years ago, when microwaves were used to keep a helicopter aloft for as long as we would supply the microwaves.

COMMENTATOR. It was only a model helicopter, but it worked. The power was not supplied through the restraining wires. No one doubts the feasibility of microwaves for huge power transmissions.

The whole system has been fully worked out and could be operating by the 1990's.

But there is a major question: if the satellite moves out of orbit does the microwave beam fry up the neighbourhood of the receiving station and cut a blazing path across the world?

Dr. GLASER. If the satellite would try and go off station, then a beam which emanates from the receiving antenna, is no longer received by the satellite and thereby the beam no longer is received in its coherent concentrated form but quickly spans out to cover a very much larger area and the whole power density drops to a level that is more like a signal coming from a communication satellite rather than a power beam.

COMMENTATOR. The satellite would be twenty square miles in area and would be a hundred times heavier than anything so far launched into space. * * *

Dr. GLASER. We believe we can build the first system at a cost only three times the cost of nuclear power plants today. And therefore we can look forward to the day when we would have hundreds of receiving stations on earth, located on land, or perhaps at sea, in many nations around the world, so that we can meet our future energy needs.

COMMENTATOR. It would, of course, be considerably cheaper to build a solar station on the ground, using the substantial number of sunshine hours that we do have. That power is available has already been proved by a French team who have built in the Pyrenees a solar furnace. They have achieved temperatures of 4,000 degrees centigrade—hot enough to melt diamonds—but they needed a whole hillside to focus the sunlight on to one tiny spot.

A solar power station would need a much larger area. Sheets of solar cells, as in the satellite would be spread over the ground, converting sunlight directly into electricity.

But the cost of these solar cells is at the moment, prohibitive. The answer may be close at hand. Leaves have been converting solar energy for millions of years. Their secrets have only recently been unravelled by a team at the Lawrence Berkeley Laboratory, California. * * *

KLEIN. What we have here is an experimental solar cell contained in this box, and it's a crystal of zinc oxide and a solution of chlorophyll, the green material of plants. This is being excited by light from this source, passing through a filter to take out the heat, and another filter so that we can just see it. And what we're really attempting to show is that the light from this lamp will excite the chlorophyll molecules which will then transfer electrons into the crystal and thereby generate electric power through an external circuit. In a very general sense it is what a leaf does. The sunlight excites chlorophyll molecules which then pass on the excited electrons to special molecules that are particularly arranged in the plant's cell and they then produce chemical energy. This actual cell at the momement as it's operating is probably generating something in the range of milowatts, that's a thousandth of a watt, and of course power consumptions are in thousands or millions of watts, so that we're a long way from a practical device. However, it's a very tiny area which is active, and so one can make some extrapolations and say that if you covered many thousands of acres, that perhaps one could get useful power out of it.

COMMENTATOR. It's very important work, but this little crystal is a long way from being part of a solar power station.

In the meantime there is a simpler way of collecting the solar energy for a power station. So far only one such collector has been built. This is on the roof of the University block at Tucson, Arizona. The man who designed it was Dr. Aden Meinel, President of the Optical Society of America.

MEINEL. Well this is a thermal test loop that we're using to test the engineering feasibility of the solar energy conversion method that we're proposing. This particular device uses the mirrors that you see down here to concentrate sunlight, and the sunlight enters this silver tube, which is very much like a thermos bottle, and inside the tube there is a sealed pipe, very much like this here. We flow a heat collecting fluid, a heat transfer fluid through this pipe. Now in this model we're using gas because of simplicity. We're running pressurized gas through it. The gas gets quite hot, up to 1,000 degrees Fahrenheit on a bright sunny day, so that the gas coming out of the other end is at 1,000 degrees.

COMMENTATOR. The superheated gas or steam could then be fed through turbines in the conventional way. But a huge number of collectors would be necessary.

MEINEL. We would need an area of land 70 miles by 70 miles, if you put them all in one area. Of course you wouldn't put them all in one area, these solar power farms would be distributed over quite a big area of the desert, and not densely packed. But that's a reasonable amount of land, we feel, to use, to supply a million megawatts which would be the entire electrical power need of the United States.

COMMENTATOR. Such solar power stations would obviously cost less than solar satellites, but they wouldn't be the cheapest.

MEINEL. Solar power literally means you'd have to be prepared to pay about twenty per cent more for your electric power than you would from a nuclear power plant, and most of the people that we've talked to think that's a pretty good trade off to have something as safe as solar energy.

COMMENTATOR. One of the problems not totally solved is power storage at night time or on cloudy days. But the extraordinary thing is that only two outfits in the world are working on this idea. Little or no money is being put into solar energy by Western governments or by independent power companies.

Maybe one doesn't need a major power authority to make use of solar energy. These houses are on the outskirts of Washington, D.C. and this one doesn't look so very different from the others. In it lives Mr. Harry Thomason, a civil servant, who built the house himself for his own family to live in. It is in fact, a solar home.

The materials it is made of are not expensive. This roof is corrugated asbestos sheeting, painted black to soak up the sun's heat. In the grooves, run thin trickles of water fed from a pipe above. The whole roof is covered by glass to prevent the water evaporating.

When it comes off the roof and down through a pipe into the cellar, the water is surprisingly hot, often in the region of 110° F.

In the centre of the tank is another, sealed tank through which flows the separate household water system. This is heated to lukewarm, about half the temperature required for hot water; the other half of the work is performed by a conventional water heater.

The solar heated water then passes into a large tank built under the house. The stones that surround it form an efficient storage heater and air passed over them is fed into the system of ducts like any other warm air central heating system. The outlets could be anywhere but Mr. Thomason prefers them over the picture rail. How much money does the system involve?

Mr. THOMASON. The system including solar heating, air conditioning, and domestic water heating costs about 2500 dollars or approximately £1,000, and a system of the normal type would cost about £500 or about 1200, 1300 dollars. If solar energy gives us about two thirds of our heat from the sun, that gets our fuel bill down from about 150 to 200 dollars a year down to about 40 to 50 dollars a year.

COMMENTATOR. Many people would like their fuel bill cut by more than two thirds in this way. The system, more expensive than a conventional one merely because it is different, would pay for itself in a very few years. But Harry Thomason is a loner. How much more could be done if modern commercial and scientific research was employed?

THOMASON. For every house that is built today that is not solar heated, it's predestined to burn about 50,000 gallons of fuel during its lifetime, and of course to smoke and pollute our atmosphere in the process. Now if we can cut that to where that house, instead of burning 50,000 gallons of fuel, burns only 10 or 15,000 gallons, then we have saved a lot of fuel and saved a lot of pollution of our atmosphere.

COMMENTATOR. Washington is not that much sunnier than London. There is more sunshine in Britain than we are led to believe. The average is about 4 hours a day. An architect, working on a project at the Polytechnic of North London is Edward Curtis. He is testing various systems of small solar panels as supplementary heating units. They are much smaller and simpler than Harry Thomason's and they are for hot water only.

ARCHITECT. If you were incorporating this into a new house, the actual cost of the unit plus the tank and pipe work would be say, probably in the order of £250 over the normal cost of the hot water system, and the saving over a period of time would be, depending on the weather, you know, per heating season, would be about a quarter to a third of the normal consumption of electrical energy to the immersion heater, assuming that you had an immersion heater as your power input.

I think the use of solar energy in this country probably will be thought about much more in the future, and I think governments all over the world will have to get down to spending much more money on research for solar energy applications. I'm sure that this is a thing that will happen in the future.

COMMENTATOR. A different form of solar energy—but solar energy, nonetheless—is in the water cycle. Solar heat lifts water off the surface of seas and oceans, carries it in clouds to continents where gravity eventually pulls it back to the sea.

Man has been using water power for centuries. This Welsh flour mill is said to be the last working water mill in Britain. You can still buy the fruits of its labours in North London.

This, however, is the Hoover dam, on the Colorado river. When it was built in 1936 it provided enough hydro-electricity for the whole of Los Angeles. Now it fulfills only a small portion of that city's requirements. In Britain, as in America, almost all the available sites for hydroelectric schemes have been used up, and even these are a long way from the major conturbations that need the power. In addition, the big African dams have encountered problems of disease, weeds and silt. Hydropower is not the answer for world energy.

How about wind power? Also driven by solar heat, the wind is too erratic for anything but highly specialised tasks. Nevertheless, world trade, right up to the last century, was based on ships powered solely by the wind.

How about moon power? The moon is responsible for moving phenomenal amounts of water about in the form of tides.

There are three or four places in the world where these tides are high enough for barrage schemes to be considered. One of them is near St. Malo on the Channel coast of France. This is the only tidal power station in existence. Under the road is the generating station, and under the generators are the turbines. As the tide runs out, the water is sucked through narrow channels and turns the blades with irresistible force.

When the tide comes in, the system works in reverse. Unfortunately, there were unforeseen complications with the water flow and the station had to be linked to a computer which tells them when to open the sluice gate, how to pitch the blades and so on, depending on the time of year. The amount of power produced was not enough to warrant further, more ambitious schemes to be tried, in spite of the fact that this is one of the world's ideal spots.

There is one more way we could solve our energy problems—how about earth power?

We live on a thin skin of crust, and under our feet is a world of fire. If we could tap that heat the supply would be virtually endless. In volcanic regions this is already done—New Zealand, Iceland, Italy, all use geothermal power.

This station at Lardarello produces one quarter of Italy's electricity. It used to produce a third, but the Italians find it cheaper to import *oil* from the Middle East. That will change.

Here in Southern California, they are beginning to make use of some of the forces which wrecked San Francisco in 1906, for this is part of the famous San Andreas fault.

Molten rock coming up the cracks meets water seeping down. The result is a natural superheated reservoir thousands of feet below the surface. When the pressure is released it converts to steam. The technology of the oil industry could easily be switched to this. However, such areas in the world are limited, so how much electricity could this one valley produce? Dr. Robert Rex is a consultant geologist.

Dr. REX. Well, the valley itself is some 70 miles wide north-south, but this particular portion that you see right here has been projected by the Bureau of Reclamation to have a potential of 4 to 5,000 megawatts. That's approximately the amount of electricity for a city the size of Chicago. In terms of the giant nuclear plants which are now running at about a thousand to eleven hundred megawatts, you're talking here about 4 to 5 giant nuclear reactor equivalents. And the main difference is that it's as clean an energy source as we see right now, and still a low cost energy source. It's this combination of remarkably small environmental impact, combined with remarkably low cost by comparison to alternative technologies, that's caused geothermal energy to all of a sudden jump to the fore as one of the major new energy sources in many parts of the world.

COMMENTATOR. But not everywhere. Paris, although not on an active geological fault line, does have a large underground reservoir. This is the French television centre. The whole building is heated geothermally from one bore hole 700 feet deep. It heats not only the numerous offices but also the large spaces of the studios themselves.

But, although this source of underground water stretches right across Normandy, it is not deep enough and therefore not hot enough to produce steam for electricity generation. Surely, if we *could* drill deep enough, we could drill almost anywhere to reach this source of earth power.

Dr. REX. The key question is "Is the technology adequate?" The research and development to do this is now underway. There is a programme to try to get the energy out of hot dry rock going on at Los Alamos, New Mexico, and if that's success-

ful we'd be able to do this almost any place, certainly in places like England it would open up substantial geothermal potential.

COMMENTATOR. What is curious is that very litte money is being invested in this. The attitude to geothermal power is just as blinkered as it is to solar power.

There is one drawback to all these new energy systems—they can only make electricity—and electricity is not much good for carrying about with you as petrol and diesel oil and even coal are. It is almost impossible to store electricity in manageable quantities. And there are serious problems about storing it in large quantities.

The only proven method is to pump water up and down mountains.

This is Ffestiniogg pump storage scheme in Snowdonia. The water that is released into this reservoir from another reservoir at the top of the mountain provides peak power for the Manchester area.

During off-peak periods electricity is fed in from a nearby nuclear station and this is used to pump the water back up to the top. Because it takes more power to pump it up than you get back when it comes down, the system actually consumes electricity.

On an economical level, it works, and the constructors have done a remarkable job in concealing the usual accoutrements of power stations. But, nonetheless, a valley has been flooded and this included part of the historic Ffestiniogg Railway. More such schemes are planned—and so are more protests from the people affected.

There is, however, a perfectly good method of energy transportation and storage which has been lying dormant for many years. Dr. Derek Gregory from London works at the Institute of Gas Technology in Chicago.

Dr. GREGORY. We're looking here at the possibility of making hydrogen as a synthetic fuel that can provide all the needs of the fuel industry—the fossile fuel industry, as it exists today. We can make hydrogen from water by adding energy to water and splitting it apart into hydrogen and oxygen. We would get that energy from one of the new forms of power station that are coming along now. It could be nuclear, or solar, or geothermal, it could be a fusion station. We're going to put the hydrogen into a pipeline very similar to the lines that we use today to move natural gas. Over here we have a storage system, an emptied gas field, a natural gas field that's been emptied. The transmission line comes across the fields here, and all you can see are those little markers where the line—to identify where the line is.

Right underneath where I'm walking there's a 36" diameter natural gas pipeline, bringing gas into the city of Chicago. We could use the same pipeline to carry hydrogen. Now the energy carrying capacity of this line is very high. We can put three times as much energy through this line, as through the whole of this electrical overhead system that you see here.

COMMENTATOR. To outlying districts where pipelines do not reach, the hydrogen would be brought by tankers much as fuel oil is now. The whole system is completely flexible.

Local storage of hydrogen is simple, and a small local power station, pollution free, could provide electricity where needed. Shops, offices, and industry would be supplied with hydrogen gas in the usual way for furances, and houses, too, would simply draw gas from the pipeline and electricity from the local power station.

And perhaps, most important of all, hydrogen could easily be used for transport. This experimental car was designed and built by students in Los Angeles to incorporate all the best ideas from an environmental standpoint. They chose hydrogen as their fuel because it is completely free of pollutants. When you burn it, what you get is water.

It is basically a production model from a big motor company—it has an ordinary internal combustion engine which only needed modifications to the carburetion system. It performs just like a petrol engine.

Hydrogen has even been suggested for aircraft. At the moment, liquid hydrogen takes a lot of space and large wing tip tanks would be needed.

But hydrogen might have arrived earlier if everyone had not been frightened by the Hindenburg disaster in 1937.

With current technology and the use of metal hydrides, it has become much safer than petrol. This is petrol and this is a hydride containing the hydrogen fuel.

Dr. GREGORY. We like to call this concept the hydrogen economy. We think that we might be moving into an electric economy, because all the new energy sources that are being developed are electric—are being used to develop electricity at the present time, and we like to think that an alternative exists where we would live with hydrogen, not exclusively, but alongside electricity, and I believe that in the next century we'll be living in what we call a hydrogen age.

COMMENTATOR. So there are lots of possibilities for future energy, but all of them are being researched in small isolated units. None of them are being given the massive industrial or governmental support that we are giving to the dubious pursuits of oil exploration and nuclear fission.

But are there limits to the amount of power we can use? If a fairy godmother came down and gave us unlimited energy from one or other of these sources, what would happen? Amory Lovins is a physicist who has done the necessary calculations:

LOVINS. It's a law of physics that all energy ends as heat, so whenever we use energy, no matter how or what kind, we make the world a little bit warmer. Now in Manhattan, in New York City, man is adding about 8 times as much heat as the sun is adding. It's an incredible 700 watts or so per square metre, which is practically enough to fry an egg. In Birmingham and London there's about as much heat from man as from the sun, so these cities are a few degrees warmer than the surrounding countryside. They're what are called "heat islands" with their own man-made climate. But there are bigger heat islands too, because as more people use more energy, individual heat islands start to cluster together. For example, here there is something called Boswash—Boston to Washington, it's 21 cities together, and with more industry and more suburbs that area is spreading to cover a whole region. Likewise in the north-Rhine industrial area, and there are others spotted all round mainly in the northern hemisphere. As these areas grow and intensify so will their effect on the climate. Climatologists have recently discovered that global climate is quite delicately balanced, so that a small change can produce a big and often irreversible change. For example, up here in the Arctic Ocean there is a thin floating layer of sea ice, and it doesn't take much to melt that ice, in fact a sustained warming of less than a degree will do it. If you lose the ice up here you change the colour. Right now with the sea ice there it's white and reflects practically all the incoming heat. That's the reason it seems so cold, then instead of the white ice, you have dark ocean that absorbs the sun's heat very much better, so things get warmer and then it's a lot harder for the ice to re-freeze, and the best evidence we now have is that it's quite unlikely the ice would re-freeze once it melted. So how long can we keep on increasing our energy use rapidly before we get in trouble with global climate in this way? On the best available evidence the answer is less than a hundred years.

COMMENTATOR. Less than a hundred years—so at some point we may have to stop increasing our use of energy. A new concept is beginning to appear—energy conservation—in other words we might be able to meet our requirements not by increasing the supply but by reducing demand. In effect it all boils down to the reduction of waste. Often we are only 10% efficient—we throw away 90% of our energy.

There are plenty of examples of this, especially in transport. If every American driver stopped his car and sat there, revving the engine, the dynamos and generators under the bonnets would produce more electricity than the whole of the United States could ever possibly need.

We waste energy even in lighting. There are a number of cases where office managers, whose companies have had new office blocks built, have found that it was cheaper to leave all the lights on in a building permanently, than it was to buy the switches to turn them off.

We waste energy enormously in heating. This London supermarket has long frozen goods display cabinets and big freezer units. The heat that is drawn off the food is pumped in quantities to the outside air. Through another grille, cold air is drawn in, heated up, and used to keep the customers warm.

We waste energy even in our use of objects—particularly packaging—it has been worked out that in this restaurant each customer consumes 1¼ lbs of coal—in the paper packaging alone.

Every year, man gets rid of millions and millions of tons of waste material. But to save it or recycle it is not necessarily the answer to our energy difficulties, and the ultimate answer lies in our overall outlook, in the concept of total energy. This plant is at Ivry—not far from the heart of Paris.

Every day all the dustcarts of Paris and the Parisian suburbs come here to discharge their collections—the rubbish never leaves the city.

Ostensibly this is a conventional incinerator, but the heat is used to make steam, which drives turbines, which generate electricity, which is fed back into Paris. The remaining material is small—most of it metal which is extracted for recycling. So this power station performs three functions at once—the recycling of metals, waste disposal—which would have to have been done anyway—and energy production—not a lot but enough to satisfy 10% of Paris's energy needs.

Everyone in Middlesex has contributed to this—for this is Mogdon Sewage works near Twickenham.

The product is left to stand in giant tanks and methane gas is given off. This gas is collected and drives all the pumps which keep the processing plant in operation.

The gas also powers turbines which provide electric heating and lighting for all the buildings and office blocks. There is even enough gas to sell to outside organisations. The clean water is returned to the Thames and the remaining dry solid material is sold to the agricultural industry as fertilizer. Again, several jobs are performed at once—energy conservation is combined with pollution control and useful productivity. There are, of course, no fuel bills here. Energy sense always makes economic sense—it's *not* a question of money.

Take the case of cooling towers at power stations. Every cooling tower, however elegant and dramatic, is pumping quantities of waste heat into the atmosphere.

At Battersea Power Station, however, you won't see a single cooling tower—neither is it pumping waste heat into the river as some power plants do. Twenty years ago it adopted a scheme to pass on its waste heat, in the form of hot water, to the surrounding neighbourhood. They called it district heating. One family makes use of the hot pipes before they leave the power station. But the pipes then pass under the Thames to serve the housing estates on the other side.

An insulated storage tank holds the circu-

lating water which is pumped to the individual blocks of flats when needed.

It is a perfectly normal heating system—except that the fuel is free—the heat would otherwise have been thrown away.

Almost the entire area around Pimlico is heated in this way, including swimming and other amenities. But, only a very few power stations provide this district heating service. They could—the conversion from cooling towers to district heating, is simple. The trouble is that the generating authorities are only concerned with generating electricity—it is not their responsibility to provide heating by hot water.

Successive governments have been pressed on this question but there has been little response; we are just not energy conservation conscious! The forthcoming energy crunch is going to force us to re-examine ordinary, everyday, mundane aspects of our lives.

Housing and transport soak up 60% of all our energy supplies and yet in these two areas alone, substantial reductions could easily be achieved.

These houses are in Oak Ridge, Tennessee, and they are being built with fiberglass and foil insulation in the walls and floors and blown fiberglass in the ceilings and roof space. It is not expensive and anyway it cuts the houses fuel bill by more than half.

Research has shown that energy savings can reach 65% in this simple way. If building regulations in Britain were changed and strengthened, vast amounts of energy could be saved, at no extra cost to the consumer or to the government. Combined with solar or geothermal power the savings would be even greater, but for the time being we must make do with ordinary electricity, and for this we should be using a thing called a heat pump. One member of a team researching energy conservation at Oak Ridge is Dr. John Moyers.

Dr. MOYERS. This is the heat pump that performs both the heating and air-conditioning function for this home. In the winter time it heats the residence using only about half as much electricity as a resistance heating unit would. The way it works is essentially an air conditioner or refrigerator turned inside out. It's extracting heat from the cold outside air, puffing it inside to a hot . . . delivered to the inside of the house. So it picks up 1 BTU of energy say here, uses 1 BTU of electricity to do the puffing and delivers 2 BTU's indoors.

COMMENTATOR. They are no more expensive than conventional heating units, but in America they are rare, and in Britain you can't buy one at all.

The other area the Oak Ridge research team looked at was transport. This is Dr. Eric Hirst's responsibility. His figures proved that a bicycle was the most energy efficient vehicle but what about other, more convenient forms of transport?

HIRST. Well there are a number of ways in which we can reduce the consumption of energy for transportation. If we start with freight, the most energy efficient modes are the pipelines, waterways and trains. Trucks are only one fourth as efficient as trains are. Aeroplanes are the least efficient mode and require 60 times as much energy per unit of freight transport as do trains. Now unfortunately over the last 20 years there's been a steady shift away from rail transport which is quite energy efficient, towards trucks, and to a lesser extent towards aeroplanes which are much less efficient. Now if we can reverse this trend and carry more freight by train, we could save considerable quantities of energy.

COMMENTATOR. Much the same principles, he found, apply to all other forms of transport—intercity or urban. Again the trend is the same—away from the railways and other efficient mass transport systems and towards the energy consuming aeroplane and motor cars and lorries; instead of putting the brakes on we are rushing faster and faster *towards* the energy crunch. The irony is that we are not leaving our options open. Oil and therefore petrol is cheap now, but if it skyrockets in price in seven years' time and if it vanishes altogether in tweny years' time, we shall want to go back to the railways, and they just won't be there anymore. Clearly, energy is not a problem by itself—other problems, social, economic, environmental, all come together in the energy crisis. Energy experts all around the world are reaching the same conclusions. The solutions are so simple, how do we persuade ourselves to consider them? Dayid Brower is a leading conservationist:

DAVID BROWER. Well I think one of the ways to persuade people to use less is really to show them the consequences of not using less, that right now to use more and more means that we're going to have to do offshore drilling for oil, we're going to have to turn the State of Colorado upside down to get oil shale, we're going to have to raid the last great wilderness under U.S. jurisdiction in Alaska. We're shipping it over oceans that are getting very rapidly polluted. All this is now becoming a clear cost to us, as well as the smog that we have to breathe more and more of as we use less and less efficiently that oil that we are extravagantly using. Seeing the consequences I think we'll be willing to take the steps backwards. And here is a kind of interesting point. If people don't air condition more sensibly, to use their automobiles more sensibly and so on, then a real crunch, blackouts, gasoline shortages, embargos, moratoriums, these kinds of things are going to do it for us, and if we can persuade people that this is what's going to happen, and that they're much better off to decide what kinds of energy uses are important to them by themselves, rather than just waiting till the lights go out, then these kinds of changes can be made in time. If we don't make them the lights are going to go out. That's all there is to it.

By Mr. METCALF:

S. 3085. A bill to provide for the development of certain minerals on public lands; and for other purposes; and

S. 3086. A bill to establish a system for the development of mineral resources on public lands of the United States. Referred to the Committee on Interior and Insular Affairs.

REVISION OF FEDERAL MINING AND LEASING LAWS

Mr. METCALF. Mr. President, revision of the laws governing mineral development on Federal lands has been urged by many people for many years. Although there are many different provisions of the various laws which undoubtedly need to be revised, the most intense public concern has been directed toward the Mining Law of 1872.

Mining often involves the destruction of other resources to some extent. In many cases, timber must be removed, wildlife habitat must be disturbed, natural waterways must be changed, overburden must be set aside, wastes must be disposed of, roads must be pushed through undisturbed areas, water must be diverted and may become contaminated, and holes must be drilled. These and other activities are essential to obtain minerals needed by the economy.

Sacrifice of some resources to realize others is not limited to mining. It is characteristic of any intensive use. However, the Federal minerals laws, particularly the Mining Law of 1872, notably fail to have internal controls for weighing the value of these sacrifices. They contain no general requirement for recognition of the more valuable concept which is embodied in other public land laws. Under these conditions, the miner cannot be expected to take upon himself the burden of determining what is of more value to society in relation to his activities where there is no assurance that his determination will be recognized by others. For example, he cannot be expected automatically to feel obligated to respect the purity of a natural streamside area when he does not know that others will also do so.

The result has been a continuing battle among miners, prospectors, other user groups, administrators, legislators, and the general public. Attempts are made to resolve these incompatible conflicts often simply by barring mineral or nonmineral activity from specific areas. There are also, as a result, a host of special laws, or laws for special situations, governing mining in different types of Federal areas—some national parks, national recreational areas, power site reserves, wilderness areas, and others.

Mineral development is going to continue to take place on public lands. It is increasingly apparent that the United States must develop its domestic energy and mineral resources. Fortunately, the United States is blessed with vast energy resources, many of which are on public lands. For example, 50 percent of our total known coal reserves are on Federal lands, as are 72 percent of the Nation's oil shale reserves, and 56 percent of known geothermal areas. The lands contain large quantities of oil and gas resources. Federal lands also contain large quantities of the metals and other mineral materials we have come to depend on so heavily.

Public land mineral development must take place within the context of the wide variety of demands being made on Federal lands. This requires accommodations among conflicting uses. It is, and will continue to be, impossible to make everybody happy all the time.

We need to be sure that our policies and procedures assure that this development is as compatible as possible with other uses and values of these lands. How can we achieve this goal?

There is a critical need for comprehensive land use planning. Most people are willing to compromise and allow "undesirable" uses such as mining. However, they do not see the tradeoffs in the case-by-case decisionmaking process. Comprehensive planning displays the alternatives.

Environmental protection must be built in all plans and actions. We must not permit any degradation that can be avoided and we must minimize all unavoidable degradation.

This is the critical weakness of the 1872 mining law. It puts the land use decision entirely in the hands of the miner. He decides that mineral development is the best use of public lands regardless of other values, with no rehabilitation, and no evaluation of alternatives.

We must modify the basic principle of the 1872 mining law that mineral development is always the highest use of land. Existence of minerals in a given tract of land does not necessarily mean that mineral development is the best use.

In sum, we must seek to balance mineral development with other resource values and other potential land uses. For years, the scales have been tipped in favor of the mineral developer.

I believe that the general public will accept the balance principle, with one exception. This is: When in doubt, err on the side of the environment. Deferred development almost always can take place in the future, but environmental damage may be difficult if not impossible to repair.

The mineral developer wants:

First, opportunity to secure public resources;

Second, continuity in terms and conditions;

Third, security in tenure;

Fourth, compensation if use is terminated;

Fifth, reasonable prices; and

Sixth, minimum controls.

I believe that the public and the Congress can support these principles but only with a framework of:

First, the established principles of multiple-use management, sustained resource yield, and environmental protection;

Second, comprehensive land use planning;

Third, public participation and intergovernmental coordination in development and implementation of public land management plans and programs;

Fourth, full consideration of nonconsumptive uses; and

Fifth, receipt of fair market value for public resources.

Under our Constitution the Congress has a special responsibility for the Federal lands. Congress must establish policies and standards to assure that mineral resource development on Federal lands is consistent with the basic policy that the Federal lands are vital national resource reserves held in trust by the Federal Government for all the people.

The time for emotional response to the problems of the mining laws expired long ago. It is necessary for the interested public and Government officials to approach the revision of the mining laws with an objective and open mind. It is equally necessary that the mining industry respond to suggestions by more than mere opposition to any change in the mining laws. Intransigence may result in something difficult to accommodate for everyone. The time for calm deliberation and analysis is here.

To aid in this analysis, I am introducing today two bills which would revise the mining law of 1872. The first is the "Hardrock Mineral Development Act of 1974" which would repeal the 1872 law and establish a leasing system for hardrock minerals designed to embody the principles outlined above. The second is the "Mineral Development Act of 1974" which was drafted by the American Mining Congress and is identical to S. 2542, 92d Congress. It would modify the 1872 law.

Mr. President, we can establish laws that will permit compatible mineral development in a manner that is practical, fair, and just. At stake is the management of the public lands in the public interest, which includes a sound, vigorous mining industry.

By Mr. DOMENICI (for himself and Mr. MONTOYA):

S. 3087. A bill to designate certain lands in the Bosque del Apache National Wildlife Refuge, Socorro County, N. Mex., as wilderness. Referred to the Committee on Interior and Insular Affairs.

THE BOSQUE DEL APACHE WILDERNESS

Mr. DOMENICI. Mr. President, today the senior Senator from New Mexico (Mr. MONTOYA) and I send to the desk for appropriate reference a bill to designate the Bosque del Apache wilderness area within the Bosque del Apache National Wildlife Refuge as a unit of the National Wilderness Preservation System.

The Bosque del Apache National Wildlife Refuge is located about 13 miles south of Socorro, N. Mex., and it was established in 1939 as a refuge and feeding area for migratory birds and other wildlife. This proposal would include three units situated in uplands on both sides of the Rio Grande as a part of the Wilderness Preservation System. The three units are predominately desert country and support bird species including Gamel's and scaled quail, roadrunners, desert sparrows, and rock wrens. Mule deer, bobcats, and a variety of Lower Sonoran rodent species are present, and an occasional antelope. The area is of great interest to scientists and nature lovers and provides excellent opportunities for birdwatching, hiking, and other wildlife oriented public uses.

The area might be objected to in a mineral-short era on the basis of future mineral possibilities. However the U.S. Geological Survey, Bureau of Mines' appraisal of the proposed wilderness indicated no significant mineral resources on the area.

Mr. President, this proposal would preserve desert resources for future students of desert flora and fauna.

By Mr. TAFT:

S. 3088. A bill to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. TAFT. Mr. President, I am today introducing legislation that is a result of protracted negotiations on the issue of extension of coverage of the National Labor Relations Act to the health care field. This legislation contains elements of a proposal I advanced earlier on this subject, S. 2292, and like any proposed compromise, it is not precisely what parties in interest would view as an optimum solution. I do believe, however, the statutory language I present today when combined with meaningful legislative report language in the areas of bargaining units, priority board action, expedited relief, recognition picketing, supervisors, and the ally doctrine will provide a constructive basis for resolution of this issue.

The National Labor Relations Act is an extremely delicately balanced law and any changes, modifications, or additions to it must not upset this balance. The proposal and legislative report categories I suggest I believe properly reflect this concern and emphasize to the board that health care labor matters are of a special nature. The approach I suggest also is consistent with the principle of continuity of health care to a community.

I realize there will be sentiment among certain health care institutions that no change in the law is necessary and the exclusion of coverage of hospitals from the act should continue under any circumstances. I reject this approach as labor-management relations have, and will continue to be channeled into self-help situations without any governing guidelines for resolution of such disputes. This approach can only jeopardize patient care and cannot be considered in the public interest. I also reject the suggestion that mere repeal of the exemption is the only necessary step to take to settle the labor relations problems that have surfaced in the health care field. The National Labor Relations Act must reflect the principle that disputes that jeopardize patient care must be considered on a priority basis and that no labor-management dispute is above the public interest of continuity of health care to a community.

I am hopeful that several Senators who have been actively involved in this area will join me in supporting this bill and that the distinguished chairman of the Labor and Public Welfare Committee will expeditiously schedule consideration of this proposal.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3088

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(2) of the National Labor Relations Act is amended by striking out the phrase: "or any corporation or association operating a hospital, if no part of the net earnings inures to the benefit of any private shareholder or individual,"

(b) Section 2 of such Act is amended by adding at the end thereof the following new subsection: "(14) The term 'health care institution' shall include any hospital, convalescent hospital, health maintenance organization, health clinic, nursing home, extended care facility, or other institution devoted to the care of sick, infirm or aged persons."

(c) The last sentence of section 8(d) of such Act is amended by striking out the words "the sixty-day" and inserting in lieu thereof, "any notice" and by inserting before the words "shall lose" a comma and the following: "or who engages in any strike within the appropriate period specified in subsection (g) of this section,"

(d) Section 8(d) of such Act is amended by adding at the end thereof the following new sentence: "Whenever the collective bargaining involves employees of a health care institution, the provisions of this section 8(d) shall be modified as follows:

"(A) The notice period of section 8(d)(1) shall be 90 days; the notice period of section 8(d)(3) shall be 60 days; and the con-

tract period of section 8(d)(4) shall be 90 days.

"(B) Where the bargaining is for an initial agreement following certification or recognition, at least 30 days' notice of the existence of a dispute shall be given by the labor organization to the agencies set forth in section 8(d)(3).

"(C) After notice is given to the Federal Mediation and Conciliation Service under either clause (A) or (B) of this sentence, the Service shall promptly communicate with the parties and use its best efforts, by mediation and conciliation, to bring them to agreement. The parties shall participate fully and promptly in such meetings as may be undertaken by the Service for the purpose of aiding in a settlement of the dispute."

(e) Section 8 of such Act is amended by adding at the end thereof the following new subsection:

"(g) A labor organization before engaging in any picketing, or other concerted refusal to work at any health care institution shall, not less than 10 days prior to such action, notify the institution in writing and the Federal Mediation and Conciliation Service of that intention, except that in the case of bargaining for an initial agreement following certification or recognition the notice required by this sentence shall not be given until the expiration of the period specified in clause (B) of the last sentence of section 8(d) of this Act. The notice shall state the date and time that such action will commence. The notice, once given, may be extended by the written agreement of both parties."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 406

At the request of Mr. NELSON, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 406, to amend the Federal Food, Drug, and Cosmetic Act, relating to food additives.

S. 1414

At the request of Mr. CHILES, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 1414, to create an Office of Federal Procurement Policy within the Executive Office of the President, and for other purposes.

S. 2488

At the request of Mr. KENNEDY, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 2488, to extend title VII of the Older Americans Act of 1965, the nutrition for the elderly program.

S. 2497

At the request of Mr. BAKER, the Senator from Alaska (Mr. GRAVEL), the Senator from Ohio (Mr. TAFT), the Senator from Utah (Mr. BENNETT), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Montana (Mr. METCALF), and the Senator from Maine (Mr. MUSKIE) were added as cosponsors of S. 2497, to require the Librarian of Congress to establish and maintain a library of television and radio programs, and for other purposes.

S. 2581

At the request of Mr. RANDOLPH, the Senator from Maine (Mr. MUSKIE) is added as a cosponsor of S. 2581, to amend the Randolph-Sheppard Act for the Blind to provide for a strengthening of the program authorized thereunder, and for other purposes.

S. 2658

At the request of Mr. Moss, the Senator from Nevada (Mr. CANNON) was added as cosponsor of S. 2658, directing the National Aeronautics and Space Administration to provide, in cooperation with other Federal agencies, for the early commercial demonstration of the technology of solar heating and for the development and commercial demonstration of technology for combined solar heating and cooling.

S. 2820

At the request of Mr. NELSON, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 2820, to establish administrative and governmental practices and procedures for certain kinds of surveillance activities engaged in by the administrative agencies and departments of the Government when executing their investigative, law enforcement, and other functions, and for other purposes.

S. 2830

At the request of Mr. MCGEE, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2830, the proposed National Diabetes Research and Education Act.

S. 2845

At the request of Mr. NELSON, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 2845, to amend the Federal Food, Drug, and Cosmetic Act in order to protect the consumer against food additives which have mutagenic or teratogenic effects on man or animals.

S. 2863

At the request of Mr. BUCKLEY, the Senator from Idaho (Mr. MCCLURE) and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of S. 2863, to amend the National Motor Vehicle Safety Act of 1966 in order to provide that certain seatbelt standards shall not be required under such act.

S. 2896

At the request of Mr. CLARK, the Senator from Minnesota (Mr. MONDALE) was added as a cosponsor of S. 2896, to terminate Emergency Daylight Saving Time.

S. 2897

At the request of Mr. KENNEDY, the Senator from Michigan (Mr. HART), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Washington (Mr. MAGNUSON), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 2897, to raise the personal income tax exemption from $750 to $850.

S. 2912

At the request of Mr. HUMPHREY, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 2912, to provide payments to compensate Governments for tax immunity of Federal lands within their boundaries.

S. 3006

At the request of Mr. PROXMIRE, the Senator from Missouri (Mr. SYMINGTON) was added as a cosponsor of S. 3006, the Fiscal Note Act.

S. 3009 AND S. 3010

At the request of Mr. HASKELL, the Senator from Arizona (Mr. FANNIN), and the Senator from Wyoming (Mr. HANSEN) were added as cosponsors of S. 3009, to provide that moneys due the States under the provisions of the Mineral Leasing Act of 1920, as amended, derived from the development of oil shale resources, may be used for purposes other than public roads and schools; and

S. 3010, to provide that moneys due the States under the provisions of the Mineral Leasing Act of 1920, as amended, may be used for purposes other than public roads and schools.

S. 3015

Mr. HASKELL. Mr. President, I am today joining in cosponsoring legislation introduced by my colleague from Connecticut (Mr. WEICKER) which would require the President to institute a nationwide program of gasoline rationing.

On November 15, 1973 I introduced an amendment to the Energy Emergency Act which would have required the President to institute a program of gasoline rationing by January 15, 1974. At the time I stated:

Mr. President, I realize that the concept of rationing is repugnant to all the American people, and it certainly is to me, but we must simply face the facts—If we do not implement rationing by a date certain, the inevitable will happen, the decision will be delayed, shortages will worsen, people will be out of work, schools and hospitals will be forced to shut down, and our Nation will be crippled.

The amendment to require rationing failed by a close vote of 48 to 40. Since then the need for action has become clear. Our dire predictions are proving to be a very grim reality; the Department of Labor reported yesterday that more than 200,000 Americans receiving unemployment benefits have lost their jobs because of the energy crisis.

In spite of irresponsible statements that the "crisis is over" the situation is likely to prove to be even more serious in the weeks and months to come.

The Deputy Administrator of the Federal Energy Office, John C. Sawhill, testified before a combined group of members from the Interior, Public Works and Commerce Committees yesterday about the program instituted under the Emergency Petroleum Allocation Act of 1973. He said he does not believe the gasoline shortage will get either much worse or much better between now and midyear. The shortages may be somewhat more evenly distributed among the various States than they have been in recent months but they will not disappear. Americans will still be short at least 20 percent—perhaps more—of their basic gasoline supply requirement.

The only way in which we can provide the American people with anything resembling equitable treatment in connection with the shortage is by instituting a nationwide gasoline rationing program.

I ask that my name be added as a cosponsor of S. 3015, the Mandatory Gas Rationing Act of 1974.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. 3016

At the request of Mr. ROBERT C. BYRD, for Mr. BENTSEN, the Senator from Texas (Mr. TOWER) was added as a cosponsor of S. 3016, to provide that an individual, who for December 1973, was entitled to disability benefits under a State program approved under title XIV or XVI of the Social Security Act may be presumed for purposes of the supplemental security income program to be disabled during the first 6 months of 1974.

S. 3024

At the request of Mr. RIBICOFF, the Senator from Kentucky (Mr. COOK) was added as a cosponsor of S. 3024, the Energy Crisis Unemployment Benefits Act of 1974.

S. 3068

At the request of Mr. CURTIS, the Senator from Arizona (Mr. FANNIN) was added as a cosponsor of S. 3068, to amend section 103 of the Internal Revenue Code of 1954.

S. 3069

At the request of Mr. RIBICOFF, the Senator from Rhode Island (Mr. PELL), the Senator from Wisconsin (Mr. NELSON), the Senator from Maryland (Mr. MATHIAS), and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of S. 3069, to extend through December 1974 the period during which benefits under the supplemental security income program or the basis of disability may be paid without interruption pending the required disability determination, in the case of individuals who received public assistance under State plans on the basis of disability for December 1973, but not for any month before July 1973.

SENATE JOINT RESOLUTION 136

At the request of Mr. BAKER, the Senator from North Carolina (Mr. ERVIN) was added as a cosponsor of S.J. Res. 136, providing for the designation of the first week of October of each year as "National Gospel Music Week."

SENATE JOINT RESOLUTION 173

At the request of Mr. DOMINICK, the Senator from Utah (Mr. BENNETT), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Kansas (Mr. DOLE), the Senator from Wyoming (Mr. HANSEN), the Senator from North Carolina (Mr. HELMS), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wyoming (Mr. MCGEE), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S.J. Res. 173, to authorize and request the President of the United States to appoint a National Commission for the Control of Epilepsy and Its Consequences to be charged with the responsibility of developing a national plan for control of epilepsy and its consequences.

SENATE JOINT RESOLUTION 188

At the request of Mr. HELMS, the Senator from Wisconsin (Mr. NELSON), the Senator from Texas (Mr. TOWER), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of S.J. Res. 188, to authorize the President to declare by proclamation Aleksandr I. Solzhenitsyn an honorary citizen of the United States.

SENATE RESOLUTION 293—ORIGINAL RESOLUTION REPORTED TO DISAPPROVE PAY RECOMMENDATIONS OF THE PRESIDENT WITH RESPECT TO RATES OF PAY FOR MEMBERS OF CONGRESS (S. REPT. NO. 93-701)

(Placed on the calendar.)

Mr. McGEE, from the Committee on Post Office and Civil Service, reported the following original resolution:

S. RES. 293

Resolved, That the Senate disapproves the recommendations of the President with respect to rates of pay for the offices referred to in section 225(f)(A) of the Federal Salary Act of 1967 (relating to Members of Congress), transmitted to the Congress on February 4, 1974, pursuant to section 225(h) of that Act.

SENATE RESOLUTION 294—SUBMISSION OF A RESOLUTION PROVIDING THAT THE SPECIAL COMMITTEE ON AGING IS CONTINUED IN EXISTENCE AS A PERMANENT SPECIAL COMMITTEE

(Referred to the Committee on Rules and Administration, by unanimous consent.)

PERMANENT STATUS FOR THE SPECIAL COMMITTEE ON AGING

Mr. CHURCH. Mr. President, on behalf of myself and Senator FONG—the ranking minority member of the Special Committee on Aging—I introduce for appropriate reference a resolution to authorize permanent status for the Committee on Aging.

It is also gratifying to note that this resolution is cosponsored by the following Senators in addition to Senator FONG and myself: Senators WILLIAMS, KENNEDY, RANDOLPH, TUNNEY, CHILES, BIDEN, CLARK, MONDALE, BROOKE, MOSS, HUMPHREY, HART, BIBLE, STAFFORD, HARTKE, MUSKIE, EAGLETON, DOMENICI, and METZENBAUM.

The Committee on Aging was first established in 1961 to provide an overview in Congress on issues of direct concern to the elderly.

In large part, this action was taken because proposals for aged and aging Americans come within the jurisdiction of several committees.

Today, for example, there are 17 standing committees in the Senate. And at least 13 have some jurisdiction over proposals affecting the elderly.

From the time of its creation, the Committee on Aging has been a special committee. Our committee has never sought legislative jurisdiction in the sense that we could report out a bill. And this resolution—I want to emphasize—would not give such authority to the Committee on Aging. It would simply authorize permanent status for the committee, instead of requiring it to be continued on a year-to-year basis.

In addition, I want to stress that the existing functions of the committee would, in no way, be altered or compromised. We will continue to be a source of information for other congressional units when they consider legislation affecting the elderly. We will also provide a broad overview—by conducting hearings, issuing reports, and engaging in other fact-finding efforts—on specific issues of immediate and long-range concern for aged and aging Americans.

This mission, it seems to me, becomes all the more important now because the problems and challenges for the elderly have become even more complex.

My basic point is that aging is a dynamic and constantly changing field. At the turn of the century, there were 4 million persons 65 and above, or 1 out of every 25 Americans. Today, the elderly number 21 million, or one-tenth of our entire population. And in the next quarter of a century, the 65-plus segment of our population will approach 30 million.

Moreover, the trend toward earlier and earlier retirement is making it crystal clear that "aging" issues are affecting more and more of our citizens each year.

In terms of sheer numbers, then, retirement—or the prospect of retirement—should be regarded as a major social force in the United States. And the U.S. Senate should also be prepared to consider the full import of these fast moving developments, as well as to respond with sound and sensible policies for immediate and long-range issues.

Thirteen years of existence have also amply demonstrated the need for continual updating of committee reports, working papers, hearings, and other publications. In the early 1960's, for instance, the committee considered many issues directly related to the enactment of medicare. Now, it is necessary to examine the impact of national health insurance proposals which would incorporate medicare or make other major changes.

Aside from the overriding policy issues for making the Committee on Aging permanent, there are some important practical reasons as well:

With permanent status the Senate Committee on Aging could be considered in the planning for office space during the expansion of the Dirksen Senate Office Building. Now the staff must work in very cramped surroundings. Twenty people are crowded into three rooms.

It would be possible for our committee to reduce our annual budget request because we could eventually qualify for permanent appropriations for professional, secretarial, and office expenses.

The committee should have sought permanent status under the Legislative Reorganization Act Amendments of 1970. That action, I strongly believe, should be taken now.

Mr. President, the Committee on Aging has 22 members, making it the second largest committee in the Senate after the Appropriations Committee. We have a very vital function to perform. And permanent status would enable the committee members and staff to plan future activities with greater precision and efficiency.

The will of the Senate in regard to the Senate Committee on Aging has already been expressed on the 13 occassions that

the committee has been renewed for 1 year. I believe that will should be expressed again on the resolution now before the Senate.

Because time is of the essence, I strongly urge early and favorable action on this resolution by the Rules Committee.

Mr. CHURCH subsequently said: Mr. President, on the measure I introduced a few minutes ago to make the Committee on Aging a permanent committee, it should be considered by the Committee on Rules and Administration. I ask unanimous consent that the resolution may be referred to that committee.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The resolution reads as follows:

S. RES. 294

Resolution providing that the Special Committee on Aging is continued in existence as a permanent special committee and authorizing additional expenditures therefor

Resolved, That the Special Committee on Aging, established by Senate Resolution 33, 87th Congress, agreed to February 13, 1961, as amended and supplemented, is continued in existence and shall hereafter be a permanent, special committee of the Senate (hereafter referred to as the "committee"). The committee shall continue to consist of twenty-two members appointed by the President of the Senate, thirteen of whom shall be appointed from the majority party and nine of whom shall be appointed from the minority party. The President of the Senate shall continue to appoint the chairman from among members of the committee appointed from the majority party.

SEC. 2. (a) The committee shall make a continuing study and investigation of any and all matters pertaining to problems and opportunities of older people, including but not limited to, problems and opportunities of maintaining health, of assuring adequate income, of finding employment, of engaging in productive and rewarding activity, of securing proper housing, and, when necessary, of obtaining care or assistance. No proposed legislation shall be referred to the committee, and the committee shall not have power to report by bill, or otherwise have legislative jurisdiction.

(b) A majority of the members of the committee or any subcommittee thereof shall constitute a quorum for the transaction of business, except that a lesser number, to be fixed by the committee, shall constitute a quorum for the purpose of taking sworn testimony.

(c) The committee shall continue to be an additional committee for purposes of paragraph 6(d) of Rule XXV of the Standing Rules of the Senate.

SEC. 3. (a) The Committee, or any subcommittee thereof, is authorized, in its discretion (1) to make expenditures from the contingent fund of the Senate, (2) to hold hearings, (3) to sit and act at any time or place during the sessions, recesses, and adjournment periods of the Senate, (4) to require by subpena or otherwise the attendance of witnesses and the production of correspondence, books, papers, and documents, (5) to administer oaths, (6) to take testimony orally or by deposition, (7) to employ personnel, (8) with the prior consent of the Government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel, information, and facilities of any such department or agency, (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, in the same manner and under the same conditions that a standing committee of the Senate may procure such services under section 202(i) of the Legislative Reorganization Act of 1946, and (10) to provide assistance for the training of its professional staff in the same manner and in accordance with the same conditions that a standing committee may provide such assistance under section 202(j) of such Act.

(b) The minority shall receive fair consideration in the appointment of staff personnel pursuant to this resolution. Such personnel assigned to the minority shall be accorded equitable treatment with respect to the fixing of salary rates, the assignment of facilities, and the accessibility of committee records.

ADDITIONAL COSPONSORS OF RESOLUTION

SENATE RESOLUTION 281

At the request of Mr. MANSFIELD for Mr. INOUYE, the Senator from New York (Mr. BUCKLEY), the Senator from Colorado (Mr. HASKELL), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Georgia (Mr. NUNN) were added as cosponsors of Senate Resolution 281, to express the sense of the Senate with respect to the allocation of necessary energy sources to the tourism industry.

AMENDMENTS TO S. 424 AND S. 1041

AMENDMENTS NOS. 979 AND 980

(Ordered to be printed, and referred to the Committee on Interior and Insular Affairs.)

Mr. METCALF. Mr. President, when the Senate Committee on Interior and Insular Affairs meets to consider the National Resource Land Management Act (S. 424 and S. 1041), I intend to offer two amendments. They would establish a wilderness review process for the public lands administered by the Bureau of Land Management in the Department of the Interior.

When the Wilderness Act was enacted in 1964, the Congress directed three Federal land managing agencies to review the potential wilderness areas on their lands—the Forest Service, National Park Service, and Bureau of Sport Fisheries and Wildlife. But the fourth such agency, the Bureau of Land Management, was omitted. As a result, none of the 450 million acres which BLM administers has been studied for possible designation as wilderness. My amendments are intended to remedy this omission.

The first amendment directs BLM to identify all areas of BLM land that would qualify as wilderness under the definition in the 1964 Wilderness Act. This would be done as part of the inventory process that is already mandated in the bill.

The second amendment requires BLM to take those areas, study their wilderness potential, and report to the Congress on each of them, in order that the Congress can decide whether or not to establish them as wilderness areas. This review would follow the process already prescribed in the Wilderness Act, requiring field studies and local public hearings in the affected States.

These amendments would establish an orderly planning process for potential wilderness areas under the administration of the Bureau of Land Management, without interfering with the uses to which these lands are already being put.

Mr. President, I introduce the two amendments at this time. For purposes of printing, I ask that they be attached to both S. 424 and S. 1041 since it is uncertain which measure will be reported by the Interior Committee.

I also ask unanimous consent that the amendments be inserted at this point in the CONGRESSIONAL RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 979

For S. 424:

Add the following sentence to Section 4, after the sentence ending on page 4, line 18:

Areas containing wilderness characteristics as described in Sec. 2(c) of the Act of September 3, 1964 (78 Stat. 890) shall be identified within five years of enactment of this Act.

Add a new subsection (d) to Sec. 5, and renumber the following subsection accordingly:

Areas identified pursuant to Sec. 102 as having wilderness characteristics shall be reviewed within fifteen years of enactment of this Act pursuant to the procedures set forth in Sec. 3(c) and 3(d) of the Act of September 3, 1964 (78 Stat. 892–893).

AMENDMENT NO. 980

For S. 1041:

Add the following sentence to Section 102, after the sentence ending on page 6, line 1:

Areas containing wilderness characteristics as described in Sec. 2(c) of the Act of September 3, 1964 (78 Stat. 890) shall be identified within five years of enactment of this Act.

Add the new subsection (c) to Sec. 103, and renumber the following subsection accordingly:

Areas identified pursuant to Sec. 102 as having wilderness characteristics shall be reviewed within fifteen years of enactment of this Act pursuant to the procedures set forth in Sec. 3(c) and 3(d) of the Act of September 3, 1964 (78 Stat. 892–893).

NOTICE OF HEARINGS ON FEDERAL COAL LEASING PROGRAM

Mr. METCALF. Mr. President, on February 25, I announced that the Subcommittee on Minerals, Materials, and Fuels of the Committee on Interior and Insular Affairs has scheduled oversight hearings on the Department of Interior's future leasing program for the Federal coal resources of the Northern Great Plains. The first of a series of hearings is scheduled for March 13 at which time the subcommittee will hear testimony from representatives of the Interior and Agriculture Departments and the Environmental Protection Agency.

Today, I wish to announce that on April 1 and 2 the subcommittee will hear from representatives of the coal industry, State governments involved, and the general public. We also intend to hold field hearings during the Easter recess. We will announce the date, time, and place of those hearings as soon as arrangements have been completed.

We hope that the witnesses will not

only express their views about Federal coal leasing policy but will comment on the testimony presented by the representatives of the administration on March 13. Witnesses may also wish to comment on the questions which the subcommittee asked the administration to answer. For the convenience of potential witnesses, the questions are printed in the CONGRESSIONAL RECORD of February 25 on page 4042.

The hearings will begin at 10 a.m. in room 3110, Dirksen Senate Office Building on April 1 and 2. Persons who wish to testify should call Mike Harvey of the committee staff at 225–1076.

ADDITIONAL STATEMENTS

THE PROPOSED TREATY WITH PANAMA

Mr. THURMOND. Mr. President, two recent editorial columns on Panama's efforts to negotiate a new treaty with the United States recently appeared in the Augusta Chronicle, Augusta, Ga.

Both of these editorials discuss vital issues in the negotiations and deserve the attention of the Congress.

Mr. President, I ask unanimous consent that an editorial dated February 17, 1974, by Columnist James J. Kilpatrick entitled "The Sell-out of Security in Panama," and one dated February 18, 1974, by Columnist John Chamberlain entitled "Will Panama Bluff Us?" be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Augusta Chronicle, Feb. 17, 1974]

THE SELL-OUT OF SECURITY IN PANAMA

(By James J. Kilpatrick)

Formal negotiations will get under way in the next few weeks or months between the United States and Panama, looking to the drafting of a new treaty that would put an end to U.S. possession and control of the Panama Canal. By the end of this year, a State Department spokesman has said, an agreement should be ready to present to the Senate.

But if the Nixon Administration succeeds in marching this treaty to ratification, it will be over the dead body, metaphorically speaking, of Pennsylvania's Congressman Daniel J. Flood. The gentleman from Wilkes-Barre has been sounding Catonian warnings on this matter for the last 15 years. He has a couple of hundred allies in the House and a substantial number of senators who agree with his view: Abrogation of the treaty of 1903 would be folly.

In my own view, Flood and his cohort are precisely right. A dozen sound reasons can be advanced for leaving the treaty undisturbed. The only argument in favor of abrogation was put forward by Sen. Edward Kennedy in a recent speech. The present treaty, he said, has embittered our relations with Panama and been an affront to every developing nation around the world. Kennedy describes the treaty of 1903 as "an embarrassing anachronism."

The Senator embarrasses easily. Under the treaty of 1903, by which the United States acquired rights "in perpetuity" to the Canal Zone, our Nation has pored billions of dollars into Panama. Since the canal was opened to traffic in 1914, it has been operated and maintained with scrupulous fidelity as an international waterway, freely available to the ships of the world. Doubtless a new treaty would have some advantage for Panama. What possible advantage would it have for us?

The eight principles that would underlie a new treaty were set forward in the agreement signed in Panama on Feb. 7 by Secretary Kissinger. These begin with outright abrogation of the 1903 treaty. The concept of perpetuity would be eliminated. At the end of some fixed period of years, all U.S. jurisdiction would be terminated, and Panama would assume total responsibility for operation of the canal. Meanwhile, Panama would participate in administration of the canal, and the U.S., now and hereafter, would continue to pay the expenses of maintenance and operation.

These are principles—for what? In Flood's view, they spell sell-out and surrender. In return for its enormous investment, the United States gets nothing. In place of the canal's stable and orderly administration over these past 60 years, the United States wins the prospect of Communist domination.

To be sure, if the proposed new treaty were ratified, Panama no longer would be embarrassed. That is delightful, is it not? The people of Panama would be happy. Their leftist dictatorship would be pleased. The Soviet Union, now the first naval power in the world, would be ecstatic. But how in the name of common sense did these felicitous objectives come to be policies of the Nixon Administration?

Great powers, if they would remain great powers, have to accept a measure of unpopularity. They cannot survive as everybody's chum. Senator Kennedy imagines that in today's world "nations relate to each other on a basis of equality." It is not so. Such equality may exist in the kindergartens of the United Nations, where everyone plays make-believe, but is no part of the real world.

It seems highly unlikely that two-thirds of the Senate could be mustered to consent to a treaty of sellout. The House itself may have to be reckoned with; it shares with the Senate the power "to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States." It will be some time before the canal changes hands. Meanwhile, suppose we look to the canal's defenses and keep the old powder dry.

[From the Augusta Chronicle, Feb. 18, 1974]

WILL PANAMA BLUFF US?

(By John Chamberlain)

The West has already lost its access to one strategic waterway, the Suez Canal. If and when the Egyptians do clear and open the Suez with or without United Nations surveillance, the presence of a superior Soviet fleet in the eastern Mediterranean will certainly have an effect on its use. The West will send its ships through Suez on sufferance.

Yet, with the handwriting on the wall in the Middle East, the United States seems ready to toss away its ownership rights to the 647 square miles of Panama Canal Zone territory which it bought from the newly emergent nation of Panama in 1903. The "tale of two canals" could end with the so-called Third World telling the ship-owning nations, the "developed countries," what they must do to get passage from one hemisphere to another without having, like Vasco da Gama, Magellan and Sir Francis Drake of old, to round the Cape of Good Hope in one direction or Cape Horn—"Cape Stiff"—in the other.

The loss of Suez is a fait accompli; we need not discuss that here. But the decision on Panama, while it may already have been settled in Secretary Henry Kissinger's mind, will have to be made in the U.S. Senate. Will our congressmen be bluffed by General Omar Torrijos, dictator of Panama, who has threatened to send 6,000 Panamanian Guardsmen to occupy the Canal Zone by force if we fail to make a new treaty setting a date for ceding the Canal territory to Panama as its "rightful" owner?

The "moral" right of Panama to the Zone is certainly far from clear. The sovereign nation of Colombia, which is currently asking for its own "cut" in any change in Canal operations, has made it plain that it considers the Zone was originally taken by President Theodore Roosevelt from Colombia, not from any Panamanian "nation." Whether the U.S. instigated the revolution in which the Panamanians declared their independence of Colombia or not, the truth is that Teddy Roosevelt succeeded in making a "package" deal at the time. The presence of our warships kept Colombia from retaking its dissident province of Panama. In return for the help that was implicit in Roosevelt's waving of the Big Stick, the grateful Panamanians (as they were then) sold us the Canal Zone outright. It was a legitimate transaction, given the legitimacy of the Panama government. In case the whole business should now be judged illegitimate after 70 years of U.S. ownership, the canal should revert, not to General Omar Torrijos's government, but to Colombia.

The U.S., in building the Canal, certainly conferred a number of very desirable boons not only on Panama, but on the world in general. We did a great job in eradicating yellow fever in the Zone, and in Panama itself. We brought all of Western Latin America—Ecuador, Peru, Chile, and the Pacific Ocean states of Central America—into a profitable relationship with Europe and the Atlantic and Gulf Coast cities of North America.

As Donald M. Dozer, an American historian who has specialized in U.S.-Latin American relations, points out, the economy of Panama showed the highest average annual increase in gross domestic product in the decade of the 1960s of any economy in the Western Hemisphere. Despite the almost universal world inflation, the U.S. has not raised Canal tolls since 1914, when the waterway was first opened.

Aside from whatever original skulduggery accompanied the U.S. role in sustaining the Panamanian revolt against Colombia, we have nothing to apologize for in our administration of the Canal Zone. Professor Dozer has suggested that, far from ceding the Zone to a country that never legitimately owned it, we should admit it to the U.S. as the 51st state. Actually, we have the same right to be in the Canal Zone that we have to be in Hawaii, where we sustained the ousting of a native government.

Will Congress listen to Professor Dozer? Probably not. The U.S., in common with the West in general, has totally given up on its power to protect its interests in a world that is openly contemptuous of our weakness.

GIVEAWAY OF THE PANAMA CANAL

Mr. THURMOND. Mr. President, the February 1974 edition of the Phyllis Schlafly report was recently brought to my attention. This report is a very enlightening account of the history of the Panama Canal, and the recent events leading to the decision by the State Department to relinquish U.S. sovereignty over that very crucial area. Mrs. Schlafly very convincingly points out how vital it is from a military and economic standpoint that the United States maintain sovereignty over the Panama Canal.

Mr. President, I fully ascribe to the views expressed by this very fine American, and I ask unanimous consent that her report be printed in the RECORD.

There being no objection, the article

was ordered to be printed in the RECORD, as follows:

[From the Phyllis Schlafly Report, February, 1974]

GIVEAWAY OF THE PANAMA CANAL

(NOTE.—Phyllis Schlafly is the co-author of three books on nuclear strategy, "The Gravediggers" (1964) "Strike From Space" (1965), and "The Betrayers" (1968), which accurately predicted that the Soviet Union had a program to overtake and surpass the U.S. in nuclear weapons. She has testified on national security before the Senate Foreign Relations and Armed Services Committees. She is now a commentator on Spectrum for CBS radio and television. Her 1972 series of interviews with military and nuclear experts was aired on 70 television and 50 radio stations. Her first book was "A Choice Not an Echo" (1964), and her latest book is a biography entitled "Mindszenty the Man" (1972). An honors graduate of Washington University and member of Phi Beta Kappa, she has a Master's Degree from Harvard University.)

If our State Department succeeds in giving away the Panama Canal, it will be the biggest giveaway in the history of foreign handouts. It sounds incredible that any American official would be seriously contemplating such a step, but certain State Department diplomats and the United Nations have been conniving toward this objective for years. Of course, they don't call it giving away the Panama Canal—they "cover" their purpose in diplomatic language. They say they are "renegotiating the Treaty of 1903." But it amounts to the same thing.

The U.S. Canal Zone is just as much American territory as the Louisiana Purchase of 1803, the Gadsden purchase of 1853, and the Alaska purchase of 1867. Incidentally, we have paid more for the U.S. Canal Zone than for all those other huge territories combined, and there is no more reason to give it away under threat of political blackmail than there is to give away Louisiana, Arizona or Alaska.

The United States acquired sovereign control "in perpetuity" over the U.S. Canal Zone by means of the 1903 Treaty with Panama, which is still in effect, and which cannot legally be abrogated by the State Department, by the UN, or by Panama. We do not rent or lease the Canal Zone; we bought it outright and immediately paid the full purchase price of $10 million. The words "rent" or "lease" are not used in the Treaty with Panama; but the word "grants," in variant forms, is used 19 times in the Treaty. The United States accepted this grant under Congressional authority.

In addition to obtaining all the rights, power and authority of sovereignty, the United States bought the land in the Canal Zone from individual property owners, which makes us the owner of all the land, as well as the sovereign. We not only paid the legal owners of the land, but also those who were living there only under so-called squatter's rights with only shadowy claims.

U.S. INVESTMENT IN PANAMA

The United States has borne every expense of building and maintaining the Panama Canal. By 1973; our net investment in the Canal and Canal Zone totaled almost $5.7 billion. We have never even amortized the original cost of constructing the Canal. We have operated the Canal as an interoceanic public utility available to the maritime nations of the world at tolls which are just and equitable, and probably lower than they ought to be.

The annuity of $430,000 which the United States has been paying to Panama since 1939 is compensation for the loss of the annual franchise payment of the Panama Railroad resulting from the grant of exclusive sovereignty to the United States. The remaining $1.5 million we have been paying Panama every year since 1955 comes out of State Department appropriations to promote friendly relations with Panama. In no sense are these combined payments, totaling annually almost $2 million, to be regarded as rental payments for the use of the Canal or Canal Zone.

NO GUILTY CONSCIENCE

Americans should not have any guilty conscience about our treatment of Panama. The United States has created all the wealth that exists in Panama. American money and brains and labor have been responsible for building and operating the Canal.

Panama's complaints against the United States have no foundation, but have been invented and exploited by greedy Panamanian politicians. Before we built the Canal, Panama was pest-ridden and mosquito-infested. The American people went to work in this menacing and inhospitable environment and, in eleven years, wrought a miracle in the jungle. They created a disease-free ocean highway which remains to this day one of the wonders of the world. The Canal today supplies Panama with one-third of its national income, giving it the highest standard of living in Central America and the fourth highest in Latin America.

Ambassador Ellis O. Briggs summed up very well what Panama owes us: "Few enterprises as creditable as the Panama Canal are inscribed in the pages of history. The United States has maintained the Canal to the very great profit of the Republic of Panama, the independence of which was guaranteed in the original Treaty. Had it not been for the United States, the inhabitants of Panama might still be crossing the continental divide on muleback, slapping mosquitoes, and poling their dugout canoes down the muddy Chagres River—as they did for three centuries under Spain, and for many years thereafter under Columbia."

LESSON FROM SUEZ

We should learn a lesson from the history of the Suez Canal. Since Egypt seized it in 1956, it has been totally subject to the whims of the Egyptian government. For us to relinquish authority over our Panama Canal would put us at the mercy of Panama, which has had 13 changes of government since World War II, five of them violent, and where the radicals riot every time they want a new concession.

In the spring of 1973, Congressman Philip Crane appeared on the television program The Advocates. A former professor of Latin American history, Dr. Crane gave his audience a lesson in Panamanian history which shows why we would be very foolish, indeed, to deliver sovereignty over the U.S. Canal Zone into Panamanian hands:

"If we gave up the Canal Zone, we would be entrusting the security of the Canal to one of the most unstable countries in the Western Hemisphere. Consider the political upheaval just since World War II.

"Enrique Jimenez became President under a new constitution. He served until the elections of 1948 which were declared a fraud, and was succeeded by Daniel Chanis. Police Chief Jose Remon forced Chanis to resign and Roberto Chiari was declared President.

"The Supreme Court voided Chiari's appointment, and Arnulfo Arias took office. Police Chief Remon pressured Arias out of office and Alcibiades Arosemena was put in. He served about a year until Remon himself was elected President in 1952 Remon was assassinated in 1955 and replaced by Jose Remon Guizado who was arrested 12 days later as a suspect in the assassination. Ricardo Arias served out his term. Ernesto de la Guardia was elected in 1956 and became the first President since the war to serve a full four-year term.

"Roberto Chiari served until 1964 when Marco Robles took office. Robles was impeached but kept in power by the national guard until the inauguraiton, again, of Arnulfo Arias in October 1968. After just eleven days, Arias was overthrown by the guard and Colonel Omar Torrijos, the present dictator, seized control and abolished the constitution."

If we supinely submitted to demands to turn the operations and defense of the Panama Canal over to dictator Torrijos, he could charge discriminatory rates or close it to Free World shipping at will, just as Nasser closed the Suez Canal.

Incidentally, the response from viewers of The Advocates program was overwhelming. More than 12,000 persons cast ballots, and 86 percent said the United States should not give up the U.S. Canal Zone.

APPEASEMENT DOESN'T PAY

Appeasement of the Panama radicals has always tremendously increased our problems. In 1936 the Roosevelt Administration gave away without compensation many of our rights in Panama. In World War II, it cost us a high price to get back the defense bases we vitally needed. For the past 35 years, the more concessions the United States has given Panama, the more the anti-Americans and pro-Communists have increased their demands, often punctuated with violence and riots. In 1946, Alger Hiss sent to the United Nations a "report" in which he referred to the U.S. Canal Zone as "occupied territory."

Part of our problem today is that Secretary of State Christian Herter in 1960 persuaded President Eisenhower to permit the Panamanian flag to be flown alongside the U.S. Flag in the Canal Zone in plain violation of the Treaty of 1903 in which Panama agreed to forego forever the right to exercise any act of sovereignty within the Zone.

THE JOHNSON TREATIES

In 1967, the Lyndon Johnson Administration secretly drafted three treaties with Panama which would have constituted a giveaway of the Panama Canal, if it had succeeded. Those three treaties, if ratified, would have given U.S. sovereignty over the U.S. Canal Zone to Panama, would have let Panama share with the United States in the running of the Canal Zone, would have given Panama legal control over any new canal which might be built in Panama, and would have sharply increased our annual payments to Panama from $1.9 million to about $22 million a year.

The Johnson Administration had planned to keep the text of the treaties secret until after they were signed, and then rush ratification through the Senate on the usual pretext that delicate international relations would be upset if action were not prompt. This plan was foiled when the Chicago Tribune exclusively secured a copy of the Panama Canal Treaty and published it in full on July 15, 1967—one of the great news scoops of the 20th century. Copies of the Chicago Tribune were supplied to all Congressmen, who were unable to secure the text through the State Department.

Congressmen from both sides of the aisle united in their efforts to maintain and protect U.S. sovereign rights and jurisdiction over the U.S. Canal Zone. Congressman Daniel J. Flood warned: "The Panama Canal, as the key strategic point in the Western Hemisphere and the greatest single symbol of United States prestige, is marked for a takeover by Red revolutional force." Congresswoman Leonor K. Sullivan, then Chairman of the Panama Canal Subcommittee of the House Merchant Marine Committee, assailed the new Panama Canal treaty as a "giveaway" and warned that it "only opens the way to surrendering the Canal to the Republic of Panama."

The Johnson Administration treaties were quashed by the uproar in Congress. But that didn't dampen the energetic efforts of the powerful forces in our country which are obsessed with giving away American wealth

and assets to foreign countries. These forces have given away our money, our industries, our jobs, our wheat, and our technology. And they have persisted in their everlasting enthusiasm to give away the Panama Canal.

STATE DEPARTMENT CONNIVANCE

Certain State Department officials, acting without authority and in violation of the 1903 Treaty, have attempted to compromise exclusive U.S. sovereignty in the Canal Zone. Robert Hurwitch, deputy assistant secretary for Inter-American Affairs in the State Department, testified before the House Committee on Inter-American Affairs that the United States should abandon its colonial enclave in the Canal Zone. The U.S. Ambassador to Panama, Robert Sayre, speaking to the Rotary Club in Panama on February 27, 1973, erroneously declared that the United States recognizes Panama's sovereignty over the Canal Zone.

Then the United Nations got into the act with a resolution calling on the United States to conclude a new treaty with Panama giving the U.S. Canal Zone to Panama; whereupon the U.S. Ambassador to the United Nations, John Scali, gave a public pledge that his Government would "conclude a new treaty promptly" supporting "Panama's just aspirations" and abandoning the "perpetuity clause." On the showdown vote, 13 members of the Security Council voted against us, and Britain abstained. The lone "No" vote was cast by the United States and constituted our third veto in the history of the UN.

In mid-March 1973, the UN Security Council met in Panama. There was no logical reason for the Security Council to meet there, but it did. The United States should have vetoed the suggestion, but we didn't. The Security Council was devoted to a series of speeches bitterly and cleverly denouncing the United States as brutally suppressing Panama by the last vestiges of colonialism. Castro's representative led the diatribe, followed by other Latin American delegates. Torrijos made a militant speech, pressing Panama's claim for sovereignty over the Canal Zone. U.S. Ambassador John A. Scali made an unimpressive, defensive reply.

THE NEW BUNKER TREATY

January 1974 was the Tenth Anniversary of the 1964 riots at the Panama Canal in which three American soldiers were killed. One might have thought that a good way to observe the anniversary would have been to lay a wreath on the graves of those soldiers killed in the line of duty. But that was not the way the State Department looked upon the event. Our State Department thinks that a good way to observe such an anniversary is to give more concessions to the rioters. That is exactly what happened when roving Ambassador Ellsworth Bunker agreed on January 9, 1974 to eventually end American jurisdiction over the Panama Canal. The Bunker Agreement was described as a major step toward this objective.

Panamanian sources said that the points Ambassador Bunker agreed on in Panama included a time limit for the United States to cede the Canal to Panama, progressive Panamanian jurisdiction over it, neutrality of the Canal and the Canal Zone, the flying of the Panamian flag there, and Panamanian participation in the administration, operation, and defense of the Canal.

Congressman Daniel Flood, the leading Congressional authority on the Panama Canal, immediately labeled this Bunker agreement as "merely another incident in a program to surrender the Canal Zone that has not been authorized by the Congress, and which constitutes one of the most disgraceful diplomatic episodes in the history of the United States."

TORRIJOS THREATS

The day Ellsworth Bunker arrived in Panama, the present dictator, Omar Torrijos, hurled this insulting language: "If negotiations fail, we have no other recourse but to fight. . . . This is the last opportunity. This will be the last peaceful negotiations.

If we fail this time, we are not responsible for the consequences. The people are losing their patience and the arrival of Bunker is their last hope. It depends on him whether or not the time bomb that is the Canal Zone explodes."

Ambassador Bunker should have taken the next plane back to Washington. Instead, he stayed and caved in to the threats of the Panamanian dictator—in spite of the fact that the entire history of our relationship with Panama proves that, when we give in to their blackmail, extortion and violence, it only encourages more of the same.

Senator Ernest Hollings expressed the opinion of many Senators when he said: "I am tired of seeing the United States negotiate at gunpoint. As soon as a demonstration or a riot occurs in Panama, we rush in with another concession, another giveaway. What we fail to see is that each concession only leads to the other side uping the ante still more. . . . The demagogues and firebrands in Panama will keep fueling the issue for their own partisan ends until the last ounce of America's presence is removed."

Torrijos, however, is escalating his anti-American demands. He has been flying all over South America to drum up support for his campaign to take sovereignty over the U.S. Canal Zone. He already appears to have Argentina's Peron on his side, and he is now making a play for the support of the revolutionary regime in Peru.

"PART OF THE GLOBAL STRUGGLE"

Congressman Daniel Flood sharply admonished the Administration against compromising U.S. ownership of the Canal Zone, stressing that the Soviet Union is aggressively on the move throughout the world to entrench its might and power, and that wresting possession of the Panama Canal is "part of the global struggle for domination of strategic areas and waterways."

"In the Middle East," Congressman Flood pointed out, "Soviet nuclear warheads were sent to Egypt a month before the outbreak of the October war. In Cuba, the satellite Castro regime has mounted heavy artillery on the Sierra Madre Mountain ranges overlooking our naval station at Guantanamo. Also, Moscow has provided Castro with powerful patrol boats armed with the deadly Styx surface-to-surface missile.

"In Vietnam, the North Vietnamese and Viet Cong launch Soviet-supported air and ground attacks to seize former U.S. airbases. In the eastern Mediterranean, numerous modern Soviet warships stand ready to attack the Sixth U.S. Fleet. Panama is one of the crucial strategic crossroads of the world. The Isthmus has always been a target for predatory attacks, and that is why it will always require the presence of the United States if it is to remain free."

Congressman Flood warned that, "above all, it is essential to understand the real character of Omar Torrijos, his close ties with Moscow puppet Fidel Castro, and his secret machinations with other dictators, among them Libya's fanatical Colonel Muammar Quaddafi, the patron saint of the murderous Palestinian terrorists and ferocious enemy of the U.S. and Israel. These are not mere happenstances. They are the consequences of Communist infiltration of the Panama government by extremists who counted on the complicity of Torrijos."

Congressman Flood's warning that the Panama Canal is a target of the global Soviet strategy was corroborated by Admiral John S. McCain, former commander-in-chief of all U.S. forces in the Pacific for four years prior to his recent retirement. He pointed out that the U S.S.R. is consistently following a plan to control all vital sea lanes, including the Suez Canal, the Panama Canal, and the Straits of Malacca.

Panama's impudent demands to aquire U.S. property are developing into a major headache for Secretary of State Kissinger when he meets Latin American foreign ministers in Mexico in February to launch what he has called a "near relationship" with the Western Hemisphere nations. Panama is already one of the eight main points on the agenda, a concession we agreed to in November 1973 at a preparatory meeting of the Latin American foreign ministers in Colombia.

REMODELING THE CANAL

Congressman Flood, Senator Strom Thurmond, Congressman Philip Crane, and most experts on Panama in Congress believe that the time has come for extensive remodeling of the Canal. Under the Flood-Thurmond-Crane bill, the capacity of the Panama Canal would be more than doubled in terms of annual ship transits—from 15,000 to 30,000. This is considered sufficient to meet traffic demands for at least the next 50 years. The estimated cost of the project is less than one-fourth the cost of a new sea-level canal, which they deem needlessly expensive, diplomatically hazardous, ecologically dangerous, and liable to the control of foreign governments.

The U.S. Canal Zone was purchased under Congressional authority with funds appropriated by Congress, under the Treaty of 1903 ratified by the Senate, and is the property of the people of the United States. The Encyclopedia Britannica properly defines the U.S. Canal Zone as "the constitutionality acquired territorial possession of the United States granted in perpetuity by the Republic of Panama for the construction of the Canal and for its perpetual maintenance, operation, sanitation and protection."

The Congress should rebuke the State Department and the United Nations for trying to undermine one of our most important treaties. We should not recognize any claim by the United Nations to intervene in what is an exclusively domestic problem of the United States. We should not participate in any meetings or negotiations which call into question the clearly defined treaty rights of U.S. sovereignty.

AS VITAL AS CHESAPEAKE BAY

U.S. ownership and sovereignty over the U.S. Canal Zone are just as vital to us as the protection of the Chesapeake Bay. The Panama Canal is an irreplaceable element in our military defense and an indespensable lifeline to our economic security. Sovereignty over the U.S. Canal Zone should not be negotiable. We should ignore the political blackmail of the Panamanian politicians and the hypocritical howls from the United Nations.

If the Nixon Administration presses for finalization of the ill-conceived and secretly-negotiated treaty worked out by Ellsworth Bunker and Omar Torrijos, it will be heading for another confrontation with Congress. There are few issues on which the Congress has shown such bipartisan unanimity as the issue of the Panama Canal. The large majority of our Congressmen know that the U.S. Canal Zone is American territory, and they intend to keep it that way. It is more important than it has ever been to our military and economic security.

ASSIGNMENT OF SCHOOLCHILDREN TO SCHOOLS ON THE BASIS OF RACE, RELIGION, CREED OR NATIONAL ORIGIN

Mr. HARRY F. BYRD, JR. Mr. President, the distinguished Senator from Nebraska (Mr. CURTIS) recently forwarded to me a copy of Legislative Resolution 19, passed by the Nebraska Legislature. This

resolution calls for an amendment to the U.S. Constitution to end, in clear and unequivocal terms, the unfair and illogical practice of assigning our schoolchildren to attend public schools solely on the basis of race, religion, creed, or national origin.

The resolution would specifically bar the practice of compulsory school busing to achieve an artificial racial balance.

I salute the legislators from the great State of Nebraska for raising their voices in opposition to forced busing. And I thank my close friend, the able Senator from Nebraska, who has been a leader in the national campaign to put an end to forced busing for bringing this action of the Nebraska Legislature to my attention and to the attention of our colleagues.

Although matters of geography separate Nebraskans and the citizens of the Commonwealth of Virginia, we have many common bonds.

One is the deep and abiding respect for individual freedom and responsibility—and a strong and determined opposition to the forces which threaten those liberties, such as compulsory busing for the sole purpose of achieving an artificial racial balance.

In 1973, the Virginia General Assembly took a similar action, by memorializing the U.S. Congress to call a constitutional convention to consider such a proposal.

Mr. President, I urge my colleagues to heed the voices of conviction which demand an end to this discriminatory practice. It is time to act in a responsive manner on this vital issue.

SENATOR RANDOLPH URGES PRESIDENT TO SIGN THE EMERGENCY ENERGY ACT

Mr. RANDOLPH. Mr. President, on November 7, 1973, President Nixon made a major address to the American people on the energy emergency facing our country. On the next day a special message was sent to the Congress proposing that—

> The Administration and the Congress join forces and together, in a bi-partisan spirit, work to enact an emergency energy bill.

In that same message the President pledged the full cooperation of his administration. It was his expressed hope that—

> By pushing forward together, we can have new emergency legislation on the books before the Congress recesses in December.

Yesterday the House accepted the conference report on such an Emergency Energy Act by a vote of 258 to 151, following similar approval from the Senate on February 19 by a vote of 67 to 32.

On balance, this legislation is responsive, in my judgment, to the needs indicated earlier by the President. There are a few substantive deficiencies but these are overwhelmingly offset by the other vitally needed provisions.

I am convinced that the United States is faced with a deepening energy crisis and extraordinary steps are needed to assure that the livelihood of millions of citizens are not unnecessarily harmed by these shortages. I telegraphed the President last night urging his signature on the final action of the House-Senate conference report. I ask unanimous consent that a copy of this telegram be printed in the RECORD.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., February 27, 1974.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: With both the Senate and the House having accepted the Conference Report on the Energy Emergency Act by overwhelming votes, this legislation will reach the White House for what I hope will be final action within a short time.

The appropriate final action, in my judgment, would be for you to place an approving signature on this measure. It may not be perfect legislation in every particular, but I believe that, on balance, its few substantive deficiencies are overwhelmingly offset by vitally needed provisions.

I am convinced that we are in a deepening energy crisis and that the energy directors and administrators in the Executive branch need now—or soon will need—numerous of the authorizations and mandatory provisions in the Conference version of the Energy Emergency Act. These will be needed in order to provide solutions for the problems imposed on millions of United States citizens and other persons who are increasingly being inconvenienced and harmed by the gasoline and other energy supply and related shortages.

Your signature on the end product of the Conference would be in consonance with the decisions of both Houses of the Congress and will help America and millions of citizens in this time of imbalance and shortages.

JENNINGS RANDOLPH,
U.S. Senator.

Mr. RANDOLPH. Among the various authorities contained in the conference report is a provision creating a temporary Federal Energy Emergency Administration. This authority is needed for the effective administration of the mandatory allocation program currently operated by the Federal Energy Office. The Federal Energy Office is functioning under Executive Order 11748 of December 4, 1973. As such, all the Federal Energy Office's employees are on loan from other Federal agencies and there is little if any authority to hire the necessary personnel to effectively administer these programs. This authority also is needed so that direct appropriations can be provided for these vital programs. As expressed yesterday by John Sawhill, Deputy Administrator of the Federal Energy Office, at hearings before the Senate Interior Committee:

> I wish the Congress would give us a bill (to provide the necessary resources, particularly of personnel) so we have a statutory base for our organization, so we could have some of the people on board in the Chicago office, I don't know what the figures are, but we probably have 90 people detailed in from other agencies. How are we going to make a process work when yesterday somebody was a chicken inspector and today they are supposed to be running an allocation program.

Mr. President, this untenable situation should not be allowed to continue. The necessary authority for a temporary Federal Energy Administration is contained in the Energy Emergency Act.

This, Mr. President, is just one example of the several authorizations and mandatory provisions in this vital legislation which are needed to cope with the immediate energy crisis facing our country and all of our citizenry.

MEMOIRS OF A BUSINESSMAN-MAYOR

Mr. HARTKE. Mr. President, as the former mayor of Evansville, Ind., I know quite well the difficulties faced by mayors in thousands of communities throughout the United States. While we in Washington often take the specific and translate it into the general, they must work day in and day out with specific problems which require equally specific solutions.

Recently, I read an article in Business Week of a mayor who sought to bring business methods to municipal government. It was a story about A. J. Cervantes, the distinguished former mayor of St. Louis, Mo.

Mr. President, I ask unanimous consent that the article to which I have referred be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MEMOIRS OF A BUSINESSMAN-MAYOR

(By A. J. Cervantes)

"Business gave birth to the American cities; businessmen can restore life to the American cities."

Ten years ago, I believed that Puritan thesis as an article of civic faith. With the selfrighteousness of a successful businessman, I preached this doctrine of the cities' salvation: "Put government back into the hands of men who know the meaning of the tax dollar, the balanced budget, business methods, and a successful city."

The City of St. Louis bought my thesis. Twice they elected me as their mayor.

The cities of Missouri bought my thesis of the mystical power of business as applied to city governance. Twice they elected me as their head of the State Municipal League.

The media—if they did not unreservedly buy my thesis—acted as though they did. Publications from the *Neighborhood News* to the *Harvard Business Review*, TV stations from the sparse communications "laboratories" of the junior college to the lush network studios of New York and Los Angeles gave me as the "businessman's mayor" a klieg-lighted and camera-laden platform to spread the good word and saving doctrine of the computerized city and the system analysis budget.

Even the executive office of the President of the United States, at the invitation of the Office of Management & Budget, had me, as "the businessman turned mayor," address the chief administrators of major governmental agencies of our country on how a successful businessman approaches and subdues the standard urban crisis problems of our seething cities: poverty, discrimination, social tension, strikes, riots, and impending bankruptcy.

REEVALUATION

Now that I have withdrawn from the clang and stress of public life and retired to the more placid tenor of the university lecturer and professor-student dialogue, I realize that the "business" answer is not always the answer to the question of "good government." The good business executive is not necessarily a good government executive. On the con-

trary, the good business executive by that very fact may well be a poor government executive.

Government is a business. The largest in our country. But government is more than a business. Government presides over a way of life. And if the government executive applies only the priorities and goals of business to the American government and to the American people, he will inevitably destroy the purpose of the American government.

Business methods can be applied by the government executive to the common housekeeping functions of government: computerizing records, regularizing contracts, systematizing inventories, bidding purchases, cultivating public relations, professionalizing budgets, etc.

But as a mayor in the 1960s, I came to realize that these methods would not adequately solve the major urban problems of discrimination, poverty, riots, and social tension. Yet one of the more appealing panaceas to be put forth was that business should become more involved in solving "urban problems."

In fact, my experience as a businessman led me to campaign on that very theme of bringing "business methods to government" and "getting business involved in the problems of the city." We computerized many city records, secured industrial cooperation in job training programs, induced many businesses to hire young people for summer jobs, and laid the groundwork for the major building boom now occurring in downtown St. Louis.

But as one becomes more involved in governing a large city, one learns that in many cases "business methods" cannot be translated into political reality. To take a word from business, let's give some "practical" examples:

St. Louis has two city hospitals, one traditionally serving black patients and one traditionally serving white patients. Although no racial restrictions are imposed (indeed, positive steps are taken to ensure patient integration), the public still views one hospital as black and one as white. An efficient businessman would merge the two: But any effort to do that in St. Louis requires that one or the other be closed. And in a city half black and half white, each racial group refuses to allow "its" hospital to close.

St. Louis has a large number of recreation programs operating in school playgrounds and parks. Some programs have many participants, but others have few. An efficient businessman would say, close those programs that have relatively few participants. But this would mean that some neighborhoods would have no programs for those who do use the facilities. Recreation centers must be reasonably close to everyone, so all of them stay open.

On a larger scale, I wished to move the St. Louis area forward by building a modern airport suitable for the needs of the 21st Century. Federal officials and airlines agreed that the best location would be in Illinois, just across the river from St. Louis. Jobs would have been created, the area's economy given a boost, and the city's tax base improved. But Missouri interests—unions and business—wanted the contracts and jobs that would flow from the new airport. Even though Missouri did not have a site or funds for the land, they blocked the Illinois airport. Would a businessman have turned down an investment opportunity because one group of workers or subcontractors received the benefits rather than another? Not one who wanted to survive. Yet the political reality forced other government leaders to oppose the Illinois site.

I give these examples to show that government is not a business: It is people. Government serves people, and in a democracy it must listen to people. If efficiency suffers because the people's will must be followed, our system favors following the people's will. And I—and every other person who believes in our system of government—want it always to be that way.

HORSETRADING

In politics and government, unlike business, intermediaries exist between the ultimate consumer (the citizen) and the provider of services (the government). The intermediaries are the neighborhood political leaders, the neighborhood association leaders, the representatives of labor and business, and the representatives of many other groups. Without the support of these interests, one cannot govern; indeed, one cannot get elected. Even the "new politics," which attempts to bypass these intermediaries, creates its own set of representatives. John Kenneth Galbraith, an advocate of the new politics, is said to have played an instrumental role in blocking the nomination of former Boston mayor Kevin White to the Vice-Presidency under George McGovern.

A mayor cannot continually bypass these intermediaries. But a businessman can. If he is told that a particular type of tomato soup or bar of soap will not sell, he can try to sell it anyway. But in politics a mayor needs the approval of the legislative body to even try to sell his product—to implement a new policy. To get that approval, he must secure the assent of the representatives of many interests in the community. Sometimes he must give on one matter to get approval for another policy. One may call this horsetrading and deplore it, but in a democracy it is the way things get done.

Thus a mayor may face the dilemma of appointing his third or fourth choice to a job in order to get an important program passed. Should he not make the appointment, bask in his righteousness, and forget about his important program that would benefit the citizens generally? Surely no one faced with that choice would hesitate. Yet a mayor who makes the trade is not being businesslike.

Business methods where possible, yes. Computerize your tax records. Use system analysis to schedule your trash collections (but make sure everyone gets at least two pickups a week whether they need it or not!). Hire experts.

But if you want to be mayor, be prepared to drop that great gem of efficiency if it arouses the anger of the citizens or of any significant group of citizens. You may win that one victory—although you probably will not—but you won't win many more. The business of government is government, not business.

PUBLIC FINANCING OF ELECTIONS

Mr. HUGH SCOTT. Mr. President, the Citizens' Research Foundation is presently conducting a National Conference on Money and Politics here in Washington. Yesterday, the distinguished senior Senator from Massachusetts (Mr. KENNEDY) spoke on the subject of public financing for elections. As the Senate is about to consider this most important subject, the Senator's remarks are timely, and I ask unanimous consent to have them printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

PUBLIC FINANCING OF ELECTIONS—INVESTING IN AMERICA'S FUTURE

(ADDRESS BY SENATOR EDWARD M. KENNEDY)

It's an honor and a pleasure for me to participate in this significant conference, and to have the opportunity to address so many distinguished leaders in public and private life who have done so much [within the law] to put the issue of campaign financing on the front burner of national debate.

Long before Watergate, the Citizen's Research Foundation's profound and pioneering studies of money in politics had set the stage for vigorous reform.

For at least a decade, the facts and figures laid bare by the foundation have made an overwhelming case for change. Yet few in public life were willing to heed the call until the flood of abuse over Watergate made reform inevitable.

Now, thanks in large part to the work of the Citizens Research Foundation, we have a solid framework of information and analysis on which the Senate and House can build.

We meet at an auspicious time in the movement toward reform.

As you know, a historic piece of legislation is now on the Senate calendar. Sponsored by Senator Howard Cannon, approved by an overwhelming vote in the Senate Rules Committee, the bill proposes comprehensive public financing for all Federal elections.

As participants in this conference, all of you are familiar with the outline of the Senate bill. In essence, it does two things:

First, it takes Senator Russell Long's dollar checkoff, the imaginative device enacted by Congress in 1971 for public financing of Presidential general elections, and extends it to Senate and House elections.

Under the expanded checkoff, full public funding will be available for the general election campaigns of candidates of the major political parties, and proportional public funds will be available for minor parties.

Second, in a genuine congressional breakthrough, the rules committee bill does not stop with general elections. It also offers public financing for all primaries for Federal office—President, Senate and House—through a system of matching public grants for small private contributions.

Taken together, these provisions can spark a renaissance in American political life.

At a single stroke, we can drive the money lenders out of the temple of politics. We can end the corrosive and corrupting influence of private money in public life.

Once and for all, we can take elections off the auction block, and make elected officials what they ought to be—servants of the people, instead of slaves to a handful of financial angels.

Amid so much that is negative today—the paralysis of our Nation's highest leadership, the increasing probability that the president will be impeached, the resignation of a vice president, the impending indictments of the former highest White House aides, the economy soaring upward into inflation and diving downward into recession, the sudden wave of political kidnapping, and worst of all, in terms of immediate daily impact, a Government that can't supply gasoline and won't start rationing—amid all these issues, reform of campaign financing stands out like a beacon as a truly positive contribution Congress can make to end the crisis over Watergate, and restore the people's shattered confidence in the integrity of their Government.

Most, and probably all, of the things that are wrong with politics in this country today have their roots in the way we finance campaigns for public office. We get what we pay for. As a result, we have the best political system that money can buy, a system that has now the worst national scandal in our history, a disgrace to every basic principle on which America was founded.

For years, going back in some cases over many decades, on issue after issue of absolutely vital importance to the country, national policy has been made under the shadow of a mammoth dollar sign, the symbol of the flood of enormous private campaign contributions that are swamping American politics in their wake.

Who really owns America? Who owns Congress? Who owns the administration?

Is it the people, or is it a little group of big campaign contributors? Take six examples that are obviously current today:

Does anyone doubt the connection between America's energy crisis and the campaign contributions of the oil industry?

Does anyone doubt the connection between America's cop-out on price controls and the campaign contributions of the Nation's richest corporations and the $100,000 corporate capitation tax applied in 1972?

Does anyone doubt the connection between America's health crisis and the campaign contributions of the American Medical Association and the private health insurance industry?

Does anyone doubt the connection between the crisis over gun control and the campaign contributions of the National Rifle Association?

Does anyone doubt the connection between the transportation crisis and the campaign contributions of the highway lobby?

Does anyone doubt the connection between the demoralization of the foreign service and the sale of ambassadorships for private campaign contributions?

These areas are only the beginning of the list. The problem is especially urgent and pervasive today, because of the Watergate and the soaring cost of running for every public office. But corruption or the appearance of corruption in campaign financing is not a new phenomenon. I would venture that, for at least a generation, few major pieces of legislation have moved through the House or Senate, few major administrative agency actions have been taken, that do not bear the brand of large campaign contributors with an interest in the outcome.

Watergate didn't cause the problem, but it offers the last clear chance to solve it. Through public financing, we can guarantee that the political influence of any citizen is measured only by his voice and vote, not by the thickness of his pocketbook.

To the man in the street, as the recent polls make clear, politics in American life has now sunk to the depths of public service in the heyday of the notorious spoils system of the nineteenth century. Just as the spoils system finally sank of its own scandals, incompetence and corruption, and gave way to the appointed civil service based on merit we know today, so the spoils system of private campaign financing is sinking under the scandal of Watergate, giving way to a new era of elected public service, based on public financing.

Let us all be clear, however, that public financing is *not* a panacea for America's every social ill. It is not a cure for corruption in public life. It is not a guarantee that those who enter public service will be any wiser in solving America's current problems.

What it *does* mean is that public decisions will be taken in the future by persons beholden only to the public as a whole, free of the appearance of special influence and corruption that have done so much in recent years to bring all Government to its present low estate.

With respect to the pending debate in Congress, a number of issues are being raised, and I am pleased to be able to share my views on them today:

First, the bill is not being rushed through Congress prematurely. The principles of public financing have received extensive analysis by Congress over many years, especially by the Senate. In fact, 1974 will mark the fifth year in the past decade in which the Senate, after major floor debate, has enacted major legislation on public financing:

1966 saw the birth of the dollar checkoff, signed into law by President Lyndon Johnson.

1967 saw that law delayed, caught in the crossfire of the emerging passions of the 1968 presidential election.

1971 saw the act revived, and again signed into law, this time by President Richard Nixon.

And in the wake of Watergate, 1973 saw the first extension of the checkoff to other Federal elections, in a measure passed initially by the Senate, but later killed by a filibuster mounted by those unwilling to let the majority work its will.

We now have a stronger majority than before in favor of the Senate bill—probably 59 solid votes, with substantial bipartisan support, including minority leader Hugh Scott, with whom I've been privileged to work in the development of this legislation.

The obvious question is whether we now have the votes to defeat a filibuster and bring the bill to a final vote.

There would be no doubt at all about passage of the bill, if the administration matched its action to its rhetoric and supported this reform. No member of Congress wants to take a vote against election reform to the people in November. And so, I call on the President to end the deafening silence, to speak out against a filibuster, and to join the many members of the Senate and House in support of public financing.

If the President really means it when he says one year of Watergate is enough, now is the time to show it.

The second important issue concerns the constitutional questions that have been raised. I believe that the language of the constitution and a long line of precedents in the Supreme Court, going back to the 19th century, establish ample authority for Congress to enact this legislation. In each of the major areas where first amendment and other constitutional overtones are present, especially in the treatment of minor parties and the generous role carved out for independent private spending, the Senate bill proceeds with clear regard for basic rights.

To suggest that Congress cannot enact this measure is to deny democracy the right of self-survival. Surely, with 535 experts preeminent in the field in their own right, Congress has the power to correct a clear and present evil in the area of elections.

To paraphrase the famous words of Justice Oliver Wendell Holmes, challenging Supreme Court decisions thwarting progressive social legislation at the turn of the century, the constitution does not enact Mr. Herbert Kalmbach's political ethics. And so, I am confident the Supreme Court will uphold the pending act if it passes Congress and a challenge is ever brought.

Third, contrary to the premature obituaries being offered, public financing is not a nail in the coffin of the two-party system in America. It will not diminish in any substantial way the role of political parties in the nation.

To the extent that public funds go to candidates themselves instead of to the parties, the Senate Bill simply reflects the existing reality of campaign spending, in which the role of the candidate is and must be paramount. Congress settled this issue in 1967 and ratified it again in 1971, and that is where it rests today.

In two positive ways, moreover, the Senate Bill specifically enhances the parties' role:

By conferring independent spending authority on party committees at the National and State level, over and above the candidates' own spending limits, the bill establishes a specific role for the parties in their own right, free of the candidates' control.

And, by prohibiting expenditures over $1,000 by a candidate for President, unless the expenditure has the approval of the party's national committee, the bill guarantees a substantial supporting role for the parties at the national level.

On balance, therefore, far from damaging the parties, the prospects are good that public financing will in fact be a useful counterbalance to the forces driving the party system apart and splintering modern politics.

Realistically, public financing by itself is not a lever strong enough to rejuvenate the political parties in America, but if that is the direction in which the larger political and social forces now at work are moving, then public financing will contribute significantly to the goal.

Fourth, to those who say go slow, that limits on spending and private contributions are enough for now, that all we need is full reporting and disclosure, I reply that sunlight is too weak a disinfectant, that we should not be statisfied with timid steps today, when the experience of 1972 proves that bolder ones are needed.

The dilemma of contribution and spending limits, without public financing, is that we are aiming in the dark. The limits may be set so high that they are meaningless as real reform, or so low that they will break the back of the present system of private financing, without leaving any realistic alternative in its place.

The Senate bill steers a middle course, avoiding both extremes. It sets the limits low enough to prohibit excessive private contributions. And it offers candidates the alternative of public funds at levels high enough for serious challengers to take their message to the people, so that no one can fairly say we are writing a "dream bill" for incumbents.

Fifth, contrary to some reports, the public financing provisions of the bill are in no sense mandatory. The bill does not prohibit private financing, and it certainly does not prohibit small private contributions.

In fact, it provides strong incentives for small contributions in primaries, since it offers matching public funds only for the first $250 in presidential primaries and the first $100 in primaries for the Senate and House.

Private contributions also have a role to play in general elections, since no candidate is forced to run on public funds. Instead, major candidates will have the option of relying entirely on private funds, entirely on public funds, or on any combination in between.

In this respect, the bill recognizes the vigorous differences of opinion on the proper role of small private contributions. Some feel that such contributions are an essential method for bringing citizens into the system and encouraging popular participation in politics. Others, like myself, feel that there are better ways to bring a person into the system than by reaching for his pocketbook, and that the best way to a voter's heart is through his opinions on the issues, not through the dollars in his wallet. As it should, the bill accommodates both views, without forcing either side into a rigid structure for financing their campaigns.

Sixth, we must lay to rest the spectre that public financing will fracture some presumed election compact between business money and labor manpower in American public life.

That view contains a basic fallacy, because it paints a picture of political life that no politician would recognize. The impact of public financing will be approximately equal on business and on labor, because both depend primarily on money and large campaign contributions to support the candidates they favor.

Under public financing, neither business, nor labor, nor any other interest group will be able to purchase influence, or access, or any special benefit. But neither will they have a monopoly on election manpower, or on the energy and ability of all the citizens who are willing and eager to participate in political campaigns.

Seventh, to those who say we can't afford the $90 million annual price tag on the bill, I say we can't afford not to pay the price. Dollars for public financing are a bargain by any standard, because they are dollars invested now that promise rich dividends in public service for America in the future.

Think what that price tag really means. For about the cost of a single week of the Vietnam war, for less than a tenth of a cent a gallon on the price of gasoline each year, we can take a step toward bringing integrity back to politics.

We should not hesitate to trust candidates for federal office with $90 million a year in public funds for their elections, when we trust those same candidates, once elected to the White House and to Congress, to spend $300 billion in public funds in the annual budget.

If the dollar checkoff works, it means that every dollar in funds for public financing is coming from an individual taxpayer who has given his consent. That's a complete answer to those who say that taxpayers should not be forced to pay for political campaigns and that public officials should not be spending public money on themselves.

Thanks to the good faith efforts of the Internal Revenue Service to publicize the checkoff on this year's tax returns, the checkoff is beginning to work well—15% of the returns filed so far in 1974 are using the checkoff now, already a four-fold increase over 1973.

Our hope must be that the improvement will continue between now and April 15, as taxpayers become increasingly familiar with the plan.

At the present rate, the checkoff will be ample to finance the 1976 presidential election, but that is all. To pay for public financing of other federal elections, the rate of use will have to double once again, which means that one out of every three taxpayers must use the checkoff if supplemental appropriations are to be avoided.

In effect, 80 million taxpayers are voting on their tax returns, and the votes they cast with the Internal Revenue Service between now and April 15 will be some of the most important votes they ever cast, because they are voting for honest, fair and clear elections.

In sum, a totally new experiment in American democracy is under way, an experiment as significant in its way as the school segregation and reapportionment decisions by the Supreme Court in the 1960's, or the civil rights and 18 year old vote legislation passed by Congress in recent years.

Public financing is the wisest possible investment we can make in the future of our country, because it means that American elections will once again belong to all the people of the nation.

The stage is set for Congress to seize a historic opportunity to bring our democracy back to health, and may future generations say that we were equal to the challenge.

RULES OF PROCEDURE OF COMMITTEE ON THE DISTRICT OF COLUMBIA

Mr. EAGLETON. Mr. President, in accordance with section 133B of the Legislative Reorganization Act of 1946, as amended, which requires the rules of each committee to be published in the CONGRESSIONAL RECORD no later than March 1 of each year, I ask unanimous consent that the rules of the Committee on the District of Columbia be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES AND PROCEDURES OF THE SENATE COMMITTEE ON THE DISTRICT OF COLUMBIA

Rule 1. Unless the Senate is meeting at the time, or it is otherwise ordered, and notice given, the Committee shall meet regularly at 10:30 a.m. on the second Friday of each month. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary, or at such times as a quorum of the Committee may request in writing, with adequate advance notice provided to all members of the Committee. Subcommittee meetings shall not be held when the full Committee is meeting.

Rule 2. The rules of the Senate and the provisions of the Legislative Reorganization Act of 1970, insofar as they are applicable, shall govern the Committee and its Subcommittees. The rules of the Committee shall be the rules of any Subcommittee of the Committee.

Rule 3. The Chairman of the Committee, or if the Chairman is not present, the ranking majority member present, shall preside at all meetings. A majority of the members of the Committee shall constitute a quorum of the Committee. However, the Committee may authorize a quorum of one Senator for the purpose of taking testimony.

Rule 4. Unless otherwise determined by a majority of the Committee, written proxies may be used for all Committee business, except that proxies shall not be permitted for the purpose of obtaining a quorum to do business. Committee business may be conducted by a written poll of the Committee, unless a member requests that a meeting of the Committee be held on the matter.

Rule 5. There shall be kept a complete record of all Committee action. Such records shall contain the vote cast by each member of the Committee on any question on which a yea and nay vote is demanded. The record of each yea and nay vote shall be released by the Committee either at the end of the executive session on a bill or upon the filing of the report on that bill as a majority of the Committee shall determine. The clerk of the Committee, or his assistant, shall act as recording secretary on all proceedings before the Committee.

Rule 6. All hearings conducted by the Committee or its Subcommittee shall be open to the public, except where the Committee or the Subcommittee, as the case may be, by a majority vote, orders an executive session.

Rule 7. The Committee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 72 hours before a hearing and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee.

Rule 8. Should a Subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such Subcommittee and report that fact to the full Committee for further disposition.

Rule 9. Attendance at executive sessions of the Committee shall be limited to members of the Committee and the Committee staff. Other persons whose presence is requested or consented to by the Committee may be admitted to such sessions.

Rule 10. The Chairman of the Committee shall be empowered to adjourn any meeting of the Committee if a quorum is not present within 15 minutes of the time scheduled for such meeting.

Rule 11. Subpoenas for attendance of witnesses and for the production of memoranda documents, and records may be issued by the Chairman or by any other member designated by him. The subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced. All witnesses subpoenaed before the Committee who are to testify as to matters of fact shall be sworn by the Chairman or another member.

Rule 12. Accurate stenographic records shall be kept of the testimony of all witnesses in executive and public hearings. The record of a witness' own testimony, whether in public or executive session, shall be made available for inspection by witnesses or by their counsel under Committee supervision a copy of any testimony given in public session or that part of the testimony given by a witness in executive session and subsequently quoted or made part of the record of a public session shall be made available to any witness at his expense, if he so requests. Witnesses not testifying under oath may be given a transcript of their testimony for the purpose of making minor grammatical corrections and editing, but not for the purpose of changing the substance of the testimony. Any question arising with respect to such editing shall be decided by the Chairman.

Rule 13. Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended, or suspended at any time, provided, however, that not less than a quorum of the Committee so determines in a regular meeting with due notice, or at a meeting specifically called for that purpose.

STUDY ON USE OF HERBICIDES IN SOUTH VIETNAM

Mr. McINTYRE. Mr. President, the Department of Defense, by letter dated February 27, 1974, has transmitted part A, the summary and conclusions of the final report prepared by the National Academy of Sciences Committee on the Effects of Herbicides in Vietnam, in accordance with the requirements of section 506(c), Public Law 91-441.

The Department also has included its comments on the report as well as copies of letters addressed to the various appropriate agencies to provide an orderly transition of the recommended follow-on studies noted in the report.

These actions also reflect the understanding reached between the Armed Services Committee and the Director of Defense Research and Engineering as presented in a letter from the Committee to the Secretary of Defense dated May 15, 1973.

I ask unanimous consent that copies of these various documents be printed in the RECORD. This will not include the complete part A of the report which is too voluminous to print in the RECORD, but only the abbreviated summary and conclusions. Copies of the complete part A can be obtained either at the Department of Defense or at the National Academy of Science.

Additional information on previous actions by the Armed Services Committee appear on pages 105 through 108 of the committee report No. 93-385 of the fiscal year 1974 military procurement authorization bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, D.C., February 27, 1974.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is a copy of Part A, Summary and Conclusions of the Final Report prepared by the National Acad-

emy of Science Committee on the Effects of Herbicides in Vietnam, which is being transmitted today to the President of the Senate and to the Speaker of the House of Representatives. Part B, the Supplementary Report, which provides the reference material and background data from which the conclusions of the final summary report are drawn, will be transmitted to your Committee and the Congress by 15 April 1974. This supplementary report which is a careful documentation of a massive amount of detailed data, is expected to be received for review by the Department of Defense by 14 March 1974.

In accordance with the request contained in your letter of May 15, 1973, the Department of Defense is ready to provide an orderly transition of the recommended follow-on studies noted in the report to the Federal Agencies. Copies of the letters we are currently forwarding to the appropriate agencies are included as Enclosure 2.

The Department of Defense would like to commend the members of the Committee on the effects of Herbicides in Vietnam on their dedication and the thoroughness of their efforts. I am sure that this study will add considerably to the body of scientific knowledge regarding all uses of chemical herbicides. We, therefore, encourage that the total report be disseminated promptly to the public. Specific efforts toward this goal are mentioned in Enclosure 3, Department of Defense comments.

The recommendations of the Committee on the effects of Herbicides in Vietnam are detailed on pages S–14 through S–16 of Enclosure 1. To implement these recommendations, the Department of Defense plans the following actions:

a) Through the attached letters we have requested other components of the Executive Branch to consider specific recommendations.

b) We will sponsor, with the National Academy of Sicences ,an interagency meeting to address the individual recommendations and assist in the development of an action plan for implementation by the responsible Agencies or Departments.

c) The Department of Defense has taken action on the two recommendations where we feel we have prime responsibility. This is noted in Enclosure 3, the Department of Defense comments.

d) The Department of Defense will continue to provide technical assistance as requested and required by the other agencies during this transition phase.

I feel that with the submission of this report and the follow-on activities listed above, the Department of Defense has discharged its responsibilities pursuant to the law which directed this effort.

Sincerely,

W. P. CLEMENTS, Jr.,
Deputy.

Hon. HENRY A. KISSINGER,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: For the past three years this Department has supported a study by the National Academy of Sciences to evaluate the ecological and physiological effects of the use of herbicides in South Vietnam. This study was directed by the Congress as a provision of Public Law 91–441, the 1971 Department of Defense Appropriations Authorization Act.

Enclosed is a copy of Part A: the final summary report which is being transmitted to the Congress in fulfillment of this requirement. Part B, the Supplementary Report, which provides the reference material and background data from which the conclusions of the final summary report are drawn, will be transmitted about 15 April 1974.

On 15 May 1973 the Chairman of the Senate Committee on Armed Services forwarded to your attention a copy of a letter, Enclosure 2, directing the Secretary of Defense to insure that any recommendations arising from the aforementioned study would be implemented. We had no knowledge until receipt of the report what these recommendations might encompass, therefore, we have only made informal contacts with your organization.

We would appreciate your consideration of recommendation numbers 2, 3, and 15 and any others where you believe your Department may be of assistance. Informal contact has been made in the past through interagency meetings to discuss the problem of dioxin. Your department was represented by Mr. William Salmon. We wish to formalize this action, however, and would appreciate your advising Dr. Malcolm R. Currie, the Director of Defense Research and Engineering, of the principal contact in your area to complete the transition of these recommendations into programs of your organization. A joint DoD–NAS meeting will be held in the near future to address the recommendations and develop an action plan.

Sincerely,

W. P. CLEMENTS, Jr.,
Deputy.

FEBRUARY 27, 1974.

Hon. RUSSELL TRAIN,
Environmental Protection Agency,
Washington, D.C.

DEAR MR. TRAIN: For the past three years this Department has supported a study by the National Academy of Sciences to evaluate the ecological and physiological effects of the use of herbicides in South Vietnam. This study was directed by the Congress as a provision of Public Law 91–441, the 1971 Department of Defense Appropriation Authorization Act.

Enclosed is a copy of Part A: the final summary report which is being transmitted to the Congress in fulfillment of this requirement. Part B, the Supplementary Report, which provides the reference material and background data from which the conclusions of the final summary report are drawn, will be transmitted about 15 April 1974.

On 15 May 1973 the Chairman of the Committee on Armed Services forwarded to your attention a copy of a letter, Enclosure 2, directing the Secretary of Defense to insure that any recommendations arising from the aforementioned study would be implemented. We had no knowledge until receipt of the report what these recommendations might encompass, therefore, we have made only informal contacts with your organization. A response to this letter was provided to Senator Stennis by David D. Dominick on 11 June 1973.

The recommendations of the National Academy Committee summary report are extracted in Enclosure 3. We would appreciate your consideration of recommendation numbers 4 and 6 and any others where you believe your Agency may be of assistance. Informal contact has been made in the past through interagency meetings to discuss the problem of dioxin. Your agency was represented by Drs. Carroll, Collier, William Upholt, and Gunter Zweig. We wish to formalize this action, however, and would appreciate your advising Dr. Malcolm R. Currie, the Director of Defense Research and Engineering, of the principal contact in your area to complete the transition of these recommendations into the programs of your organization. A joint DOD–NAS meeting will be held in the near future to address the recommendations and develop an action plan.

Sincerely,

W. P. CLEMENTS, JR.,
Deputy.

FEBRUARY 27, 1974.

Hon. DANIEL PARKER,
Administrator, Agency for International Development, Washington, D.C.

DEAR MR. PARKER: For the past three years this Department has supported a study by the National Academy of Sciences to evaluate the ecological and physiological effects of the use of herbicides in South Vietnam. This study was directed by the Congress as a provision of Public Law 91–441, the 1971 Department of Defense Appropriation Authorization Act.

Enclosed is a copy of Part A: the final summary report which is being transmitted to the Congress in fulfillment of this requirement. Part B, the Supplementary Report, which provides the reference material and background data from which the conclusions of the final summary report are drawn, will be transmitted about 15 April 1974.

On 15 May 1973 the Chairman of the Senate Committee on Armed Services forwarded to your attention a copy of a letter, Enclosure 2, directing the Secretary of Defense to insure that any recommendations arising from the aforementioned study would be implemented. We had no knowledge until receipt of the report what these recommendations might encompass, therefore, we have made only informal contacts with your organization.

We would appreciate your consideration of recommendation numbers 1, 2, 3, 5, 7, 8, 9, 10, 11, 14 and 15 and any others where you believe your Agency may be of assistance. Informal contact has been made in the past through interagency meetings to discuss the problem of dioxin. Your Agency was represented by Messrs. James Cudny, Alan Jacobs, and Bill Long. We wish to formalize this action, however, and would appreciate your advising Dr. Malcolm R. Currie, the Director of Defense Research and Engineering, of the principal contact in your area to complete the transition of these recommendations into the programs of your organization. A joint DOD-NAS meeting will be held in the near future to address the recommendations and develop an action plan.

Sincerely,

W. P. CLEMENTS, Jr.,
Deputy.

FEBRUARY 27, 1974.

Hon. ROGERS C. MORTON,
Secretary of the Interior,
Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: For the past three years this Department has supported a study by the National Academy of Sciences to evaluate the ecological and physiological effects of the use of herbicides in South Vietnam. This study was directed by the Congress as a provision of Public Law 91–441, the 1971 Department of Defense Appropriations Authorization Act.

Enclosed is a copy of Part A: the final summary report which is being transmitted to the Congress in fulfillment of this requirement. Part B, the Supplementary Report, which provides the reference material and background data from which the conclusions of the final summary report are drawn, will be transmitted about 15 April 1974.

On 15 May 1973 the Chairman of the Senate Committee on Armed Services forwarded to your attention a copy of a letter, Enclosure 2, directing the Secretary of Defense to insure that any recommendations arising from the aforementioned study would be implemented. We had no knowledge until receipt of the report what these recommendations might encompass, therefore, we have only made informal contacts with your organization.

The recommendations of the National Academy Committee summary report are extracted in Enclosure 3. We would appreciate your consideration of recommendation num-

bers 9, 10, 11, and 14 and any others where you believe your Department may be of assistance. We wish to formalize this action and would appreciate your advising Dr. Malcolm R. Currie, the Director of Defense Research and Engineering, of the principal contact in your area to complete the transition of these recommendations into the programs of your organization. A joint DOD–NAS meeting will be held in the near future to address the recommendations and develop an action plan.

Sincerely,

W. P. CLEMENTS, Jr.,
Deputy.

FEBRUARY 27, 1974.

Hon. GUYFORD STEVER,
National Science Foundation,
Washington, D.C.

DEAR DR. STEVER: For the past three years this Department has supported a study by the National Academy of Sciences to evaluate the ecological and physiological effects of the use of herbicides in South Vietnam. This study was directed by the Congress as a provision of Public Law 91–441, the 1971 Department of Defense Appropriation Authorization Act.

Enclosed is a copy of Part A: the final summary report which is being transmitted to the Congress in fulfillment of this requirement. Part B, the Supplementary Report, which provides the reference material and background data from which the conclusions of the final summary report are drawn, will be transmitted about 15 April 1974.

On 15 May 1973 the Chairman of the Senate Committee on Armed Services forwarded to your attention a copy of a letter, Enclosure 2, directing the Secretary of Defense to insure that any recommendations arising from the aforementioned study would be implemented. We had no knowledge until receipt of the report what these recommendations might encompass, therefore, we have made only informal contacts with your organization. A response to the letter was provided to Senator Stennis by Dr. J. A. Fregeau on 29 May 1973.

The recommendations of the National Academy Committee summary report are extracted in Enclosure 3. We would appreciate any suggestions you may have regarding further action which may be needed and any areas where your staff could make a contribution. We wish to formalize this action and would appreciate your advising Dr. Malcolm R. Currie, the Director of Defense Research and Engineering, of the principal contact in your area to further implementation of the recommendations made in the report. A joint DoD–NAS meeting will be held in the near future to address the recommendations and develop an action plan.

Sincerely,

W. P. CLEMENTS, Jr.
Deputy.

FEBRUARY 27, 1974.

Hon. EARL BUTZ,
Secretary of Agriculture,
Department of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: For the past three years this Department has supported a study by the National Academy of Sciences to evaluate the ecological and physiological effects of the use of herbicides in South Vietnam. This study was directed by the Congress as a provision of Public Law 91–441, the 1971 Department of Defense Appropriation Authorization Act.

Enclosed is a copy of Part A: the final summary report which is being transmitted to the Congress in fulfillment of this requirement. Part B, the Supplementary Report, which provides the reference material and background data from which the conclusions of the final summary report are drawn, will be transmitted about 15 April 1974.

On 15 May 1973 the Chairman of the Senate Committee on Armed Services forwarded to your attention a copy of a letter, Enclosure 2, directing the Secretary of Defense to insure that any recommendations arising from the aforementioned study would be implemented. We had no knowledge until the receipt of the report what these recommendations might encompass, therefore, we have made only informal contacts with your organization.

The recommendations of the National Academy Committee summary report are extracted in Enclosure 3. We have numbered them on the enclosure for ease of reference. We would appreciate your consideration of recommendation numbers 9, 10, 11, and 14 and any others where you believe your Department may be of assistance.

Informal contact has been made with Dr. Fred H. Tschirley of your organization. We wish to formalize this action, however, and would appreciate your advising Dr. Malcolm R. Currie, the Director of Defense Research and Engineering, of the principal contact in your area to complete the transition of these recommendations into the programs of your organization. A joint DOD–NAS meeting will be held in the near future to address the recommendations and develop an action plan.

Sincerely,

W. P. CLEMENTS, Jr.,
Deputy.

FEBRUARY 27, 1974.

Hon. CASPAR WEINBERGER,
Secretary, Health, Education, and Welfare,
Department of Health, Education, and Welfare, Rockville, Md.

DEAR MR. SECRETARY: For the past three years this Department has supported a study by the National Academy of Sciences to evaluate the ecological and physiological effects of the use of herbicides in South Vietnam. This study was directed by the Congress as a provision of Public Law 91–441, the 1971 Department of Defense Appropriation Act.

Enclosed is a copy of Part A: the final summary report which is being transmitted to the Congress in fulfillment of this requirement. Part B, the Supplementary Report, which provides the reference material and background data from which the conclusions of the final summary report are drawn, will be transmitted about 15 April 1974.

On 15 May 1973 the Chairman of the Senate Committee on Armed Services forwarded to your attention a copy of a letter, Enclosure 2, directing the Secretary of Defense to insure that any recommendations arising from the aforementioned study would be implemented. We had no knowledge until receipt of the report what these recommendations might encompass, therefore, we have made only informal contacts with your organization.

We would appreciate your consideration of recommendation numbers 4, 6, 7, and 8 and any others where you believe your Department may be of assistance. Informal contact has been made in the past through interagency meetings to discuss the problem of dioxin. Your Department was represented by Dr. Campbell of the Food & Drug Administration and Dr. John A. Moore of the National Institute of Environmental Health Services. We wish to formalize this action, however, and would appreciate your advising Dr. Malcolm R. Currie, the Director of Defense Research and Engineering, of the principal contact in your area to complete the transition of these recommendations into the programs of your organization. A joint DOD–NAS meeting will be held in the near future to address the recommendations and develop an action plan.

Sincerely,

W. E. CLEMENTS, Jr.
Deputy.

DEPARTMENT OF DEFENSE COMMENTS TO: PART A—SUMMARY AND CONCLUSIONS, THE EFFECTS OF HERBICIDES IN VIETNAM BY THE NATIONAL ACADEMY OF SCIENCES

This study should add considerably to the body of scientific knowledge regarding all uses of chemical herbicides. We, therefore, encourage that the total report be promptly disseminated to the public. To assist in this goal, the Department of Defense will immediately place this report in the files of the Defense Documentation Center, (DDC), Cameron Station, Alexandria, Va., 22314 and the National Technical Information Service, (NTIS), 5285 Port Royal Road, Springfield, Virginia 22151. As soon as the appropriate reference acquisition information is available it will be provided to the public. Additionally, the recommendation pertaining to the preservation of records is being implemented in the following manner: a) those DoD reference reports noted in Section II–D have been declassified and those which are not already available thru DDC and NTIS are being placed therein, thereby making them available to the public. b) assistance is being provided to the National Academy of Sciences in the sorting, cataloguing, and preparation of the Committee records for deposition in a permanent repository, such as the National Archives. This work should be completed by 15 May 1974.

To further the goal of advancing the body of knowledge relating to the Military use of chemical herbicides, we enclose a summary of a study conducted by the Department of the Air Force of the test grid where aerial herbicide dissemination systems were developed and tested. The complete report will be available to the public in the near future.

The Department of Defense has attempted to assist the Committee in any manner possible throughout the conduct of this contract. The extent of the information made available for their analysis and use should provide ample proof. In our efforts to comply strictly with the contract, our policy has been to take no action which might imply obstruction of or interference in the study. The Committee has maintained a comparable attitude. This reticence of both parties, however, has not been conducive to the most efficient conduct of work. For example, the Committee forwarded a detailed list of questions involving military tactics and techniques to the Department of Defense as late as August 1973. These were answered as completely as possible and are reflected in this final report. An earlier exchange would have resolved these questions and permitted the Committee members more time to pursue the scientific studies, the key issue. We would therefore, encourage not only an early exchange of direct questions but a continuing exchange in any future studies of this nature, even in such controversial areas.

One general recommendation should be addressed at this time. Specifically, "the Committee recommends that Congress, in appropriating funds for development and use of materials and equipment as weapons, also appropriate funds for *independent* study and monitoring in those cases where there is a serious possibility of any widespread or persistent ecological or physiological effects." It should be pointed out that the use of herbicides in Vietnam was instituted prior to several other important pieces of legislation which bear on this issue. The first use of herbicides was carried out in 1962 and all uses were phased out in 1971. In January 1970, the National Environmental Policy Act was passed which provides guidance and direction to all Federal Agencies and estab-

lished the Council on Environmental Quality (CEQ). Subsequently, the DoD developed implementing directive numbers 5100.5 and 6050.1, directives which required the assessment of the environmental consequences of all its activities including research and development projects at the earliest possible date. Currently our major weapons systems have been assessed and approximately 66 complete Environmental Impact Statements have been prepared and forwarded to the CEQ, other Federal Agencies, and pertinent States and local authorities.

DoD has in fact, in this area of herbicides, provided special attention to ecological and environmental concerns. As early as March 1966, studies on the ecological effects of the testing of herbicide dissemination equipment were instituted at Eglin AFB under a contract with the University of Florida. These were completed in June 1970 and a follow-on study was performed as recently as this past year. A Draft Environmental Impact Statement was filed with the CEQ in January 1972 for the disposal of the excess Orange herbicide. As a result of the comments received from the public, local and state officials and Federal Agencies, further scientific studies are being conducted and a Final Statement will be filed for review by all interested parties prior to any disposal actions.

We believe that adequate control now exists thru other legislation such that the intent of this Committee recommendation is already implemented and no further action by the Congress is required.

As a final comment to this report, we would note that a close reading of the content or the conclusions of each section would develop the following general conclusion: some damage has resulted from the military use of herbicides in Vietnam, however, most of the allegations of massive, permanent ecological and physiological damage are unfounded. It should also be remembered that herbicides were used to save American and Allied lives in a combat situation, not to collect scientific data. The quantity and quality of military data recovered and useful to the scientific study is remarkable.

THE ECOLOGICAL CONSEQUENCES OF MASSIVE QUANTITIES OF 2,4-D AND 2,4,5-T HERBICIDES

SUMMARY OF A 5-YEAR FIELD STUDY

(Young, A. L., C. E. Thalken, W. E. Ward and W. J. Cairney, Department of Life and Behavioral Sciences, U.S. Air Force Academy, Colorado)

In support of programs testing aerial dissemination system, a one square mile test grid on Test Area C–52A, Eglin AFB Reservation, Florida, received massive quantities of military herbicides. The purpose of these test programs was to evaluate the capabilities of the equipment systems, not the biological effectiveness of the various herbicides. Hence, it was only after repetitive applications that test personnel began to express concern over the potential ecological and environmental hazards that might be associated with continuance of the Test Program. This concern led to the establishment of a research program in the fall of 1967 to measure the ecological effects produced by the various herbicides on the plant and animal communities of Test Area C–52A. This report documents six years of research (1967–1973) on Test Area C–52A and the immediately adjacent streams and forested areas.

This report attempts to answer the major questions concerned with the ecological consequences of applying massive quantities of herbicides (345,117 pounds), via repetitive applications, over a period of eight years, 1962–1970, to an area of approximately one square mile. Moreover, the report documents the persistence, degradation, and/or disappearance of the herbicides from the Test Area's soils and drainage waters and their subsequent effects (direct or indirect) upon the vegetative, faunal, and microbial communities.

The active ingredients of the four military herbicides (Orange, Purple, White, and Blue) sprayed on Test Area C–52A were 2,4-dichlorophenoxyacetic acid (2,4-D), 2,4,5-trichlorophenoxyacetic acid (2,4,5-T), 4-amino-3,5,6-trichloropicolinic acid (picloram), and dimethylarsinc acid (cacodylic aid). It is probable that the 2,4,5-T herbicide contained the highly teratogenic (fetus deforming) contaminant 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD). Ninety-two acres of the test grid received 1,894 pounds 2,4-D, 2,4,5-T per acre in 1962 to 1964, while another 92 acres received 1,168 pounds per acre in 1964 to 1966. In the period from 1966 to 1970, a third distinct area of over 240 acres received 343 pounds per acre of 2,4-D and 2,4,5-T 6 pounds per acre picloram, and in 1969 to 1970, 53 pounds per acre cacodylic acid (28 pounds per acre of arsenic as the organic pentavalent form; calculated on weight of Blue applied per acre).

From the rates of herbicides that were applied during the years of testing spray equipment, it was obvious that Test Area C–52A offered a unique opportunity to study herbicide persistence and soil leaching. Yet the problem of how best to assess the level of herbicide residue was a difficult one. The herbicides could be chemically present but because of soil binding might not be biologically active. Thus, both bioassay techniques and analytical analyses were employed. The first major bioassay experiment was conducted in April 1970. By considering the flightpaths, the water sources, and the terracing effects, it was possible to divide the one-square mile test grid into 16 vegetation areas. These areas formed the basis for the random section of 48 3-foot soil cores. Soybean bioassays indicated that 27 of the 48 cores were significantly different from control cores (95% probability level). The results indicated that soil leaching or penetration was much more prevalent along the dissemination flight paths than in other areas of the test grid. Efforts to quantitate (chemically) the bioassay were confined to only the top 6-inch increment because of within-core variations. By considering that all phytotoxic effects were from Orange (2,4–D and 2,4,5–T) the average value for the top 6 inches of soil core for the eight cores showing greatest herbicide concentration was 2.82 ppm (parts per million) herbicide. Chemical analyses of soil cores collected from the eight sites showing greatest phytotoxic concentrations were performed in December 1970. Results indicated that the maximum concentration of either 2,4–D or 2,4,5–T was 8.7 ppb (parts per billion).

A 1970 analysis of soil cores for arsenic, from areas receiving greatest quantities of Blue, indicated maximum levels of 4.70, 1.30, and 0.90 ppm arsenic for the first three 6-inch increments of the soil profile, respectively. These same increments were again collected and analyzed in 1973: levels of arsenic were 0.85, 0.47, and 0.59 ppm for the three consecutive 6-inch increments. Leaching of the arsenical from the soils may have occurred. Picloram analysis in November 1969 of soil cores from areas receiving greatest quantities of White indicated that maximum levels of 2.8 ppm picloram were present in the 6 to 12-inch depth increment. Analysis of the same sites performed in 1971 indicated the picloram had leached further into the soil profile but concentrations were significantly less (ppb). Analysis of soil cores in 1971 showed no residue of TCDD at a minimum detection limit of less than 1 ppb, even in soil previously treated with 947 pounds 2,4,5–T per acre. However, data from soil analysis (via mass spectrometry) of four total samples collected in June and October 1973 indicated TCDD levels of <10, 11, 30, and 710 parts per trillion (ppt), respectively. These levels were found in the top six inches of soil core. The greatest concentration (710 ppt) was found in a sample from the area that received 947 pounds 2,4,5–T in the 1962–1964 test period.

A comparison of vegetative coverage and occurrence of plant species on the one-square mile grid betwen June 1971 and June 1973 has indicated that areas with 0 to 60% vegetative cover in 1971 had a coverage of 15 to 85% in June 1973. Those areas having 0 to 5% coverage in 1971 (areas adjacent to or under flightpaths used during herbicide-equipment testing) had 15 to 54% coverage. The rate of change in coverage seemed to be dependent upon soil type, soil moisture, and wind. There was no evidence to indicate that the existing vegetative coverage was in any way related to herbicide residue in the soil: dicotyledonous or broadleaf plants that are normally susceptible to damage from herbicide residues occurred throughout the entire one square mile grid. The square-foot transect method of determining vegetative cover indicated that the most dominant plants on the test area were the grasses, switchgrass (*Panicum virgatum*), woolly panicum (*Panicum lanuginosum*), and the broadleaf plants rough buttonweed (*Diodia teres*), poverty weed (*Hypericum gentianoides*), and common polypremum (*polypremum procumbens*). In 1971, 74 dicotyledonous species were collected on the one square mile grid; in 1973, 107 dicotyledonous species were found. All of the plant species collected were pressed, mounted, and placed in the Eglin AFB Herbarium.

An evaluation of the effects of the spray-equipment testing program on faunal communities was conducted from May 1970 to August 1973. The extent of any faunal ecological alterations was measured by assessing data on species variation, distribution patterns, habitat preference and its relationships to vegetative coverage, occurrence and incidence of developmental defects, as well as gross and histologic lesions in post mortem pathological examinations.

A total of 73 species of vertebrate animals (mammals, birds, reptiles, and amphibians) were observed on Test Area C–52A and in the surrounding area. Of these 73 species, 22 species were observed only off the grid, 11 species were observed only on the grid, and 40 species were observed to be common to both areas. During the early studies no attempts were made to quantitate animal populations in the area surrounding the grid; however, in 1970, preliminary population studies by trap-retrap methods were performed on the beach mouse (*Peromyscus polionotus*) population for a 60 day period to confirm the hypothesis that it was the most prevalent species on the grid. The hypothesis was supported by the capture of 36 beach mice from widely distributed areas on the grid, except in areas with less than 5% vegetation. Eight pairs of eastern harvest mice were taken to the laboratory and allowed to breed. Six of the eight pairs had litters totalling 24 mice. These progeny were free from any gross external birth defects. During February–May 1971 population densities of the beach mouse were studied at eight different locations on the grid along with two different areas off the grid which served as controls. Populations were estimated on the basis of trap-retrap data. There was no difference in mouse population densitites in herbicide treated and control areas affording comparable habitats. All indications were that any population differences in other animal species between the test area and the surrounding area were due to differences caused by the elimination of certain plants and, therefore, certain ecological niches, rather than being due to any direct detrimental effect of the herbicides on the animal population present on TA C–52A.

During the last day of the 1971 study, 9 mice were captured and taken to the laboratory for post mortem pathological examina-

tion. There were no instances of cleft palate or other deformities. Histologically, liver, kidney and gonadal tissues from these animals appeared normal. In the 1973 study several different species of animals were caught, both on and off the test grid. These included beach mice, (*Peromyscus polionotus*), cotton mice, (*Peromyscus gossypinus*), eastern harvest mice, (*Reithrodontomys humulis*), hispid cotton rats, (*Signodon hispidus*), six-lined race-runners, (*Cnemidophorus sexlineatus*), a toad, (*Bufo americanus*), and a cottonmouth water moccasin, (*Ancistrodon piscivorus*). A total of 89 animals were submitted to The Armed Forces Institute of Pathology, Washington, D.C. for complete pathological examination including gross and microscopic studies. Liver and fat tissue from 70 rodents were forwarded to the Interpretive Analytical Services, Dow Chemical U.S.A., for TCDD analyses. The sex distribution of the trapped animals was relatively equal. The ages of the animals varied, but adults predominated in the sample. No gross or histological developmental defects were seen in any of the animals. Several of the rats and mice from both groups were pregnant at the time of autopsy. The stage of gestation varied considerably from early pregnancy to near term. The embryos and fetuses were examined grossly and microscopically, but no developmental defects or other lesions were observed.

Gross necropsy lesions were relatively infrequent and consisted primarily of lung congestion in those animals that had died from heat exhaustion prior to being brought to the laboratory. The organ weights did not vary significantly between the test and control animals when an animal with lungs and kidneys showing inflammatory pathological lesions was removed from the sample. Histologically, the tissues of 13 of the 26 control animals and 40 of the 63 animals from the test grid, were considered normal. Microscopic lesions were noted in some animals from both groups. For the most part, these were minor changes of a type one expects to find in any animal population. One of the most common findings was parasites. A total of 11 controls and 9 grid animals were affected with one or more classes of parasites. Parasites may be observed in any wild species and those in this population were for the most part incidental findings that were apparently not harmful to the animals. There were exceptions however. Protozoan organisms had produced focal myositis in one rat, and were also responsible for hypertrophy of the bile duct epithelium in a six-lined racerunner.

Moderate to severe pulmonary congestion and edema were seen in several rats and mice. All of these animals were found dead in the traps before reaching the laboratory, and the lung lesions were probably the results of heat exhaustion. The remainder of the lesions in both groups consisted principally of inflammatory cell infiltrates of various organs and tissues. They were usually mild in extent and although the etiology was not readily apparent, the cause was not interpreted as toxic. The analyses of TCDD from the rodents collected in June and October 1973 indicated that TCDD or a compound chemically similar to TCDD accumulated in the liver and fat of rodents collected from an area receiving massive quantities of 2,4,5–T. However, based on the pathological studies there was no evidence that the herbicides and/or contaminants produced any developmental defects or other specific lesions in the animals sampled or in the progeny of those that were pregnant. The lesions found were interpreted to be of a naturally occurring type and were not considered related to any specific chemical toxicity.

In 1970 beach mice were not found on the more barren sections of the grid (0–5% vegetative cover). There were, however, some areas of the grid which had population densities exceeding those of the species preferred habitat as reported in the literature. In an attempt to correlate distribution of the beach mouse with vegetative cover (i.e., habitat preference) a trapping-retrapping program of 8 days duration was conducted in 1973. The majority of animals (63) were found in areas with 5% to 60% vegetative cover: Within this range, the greatest number of animals trapped (28) was from an area with 40% to 60% cover. A similar habitat preference has been observed along the beaches of the Gulf Coast. In this study, it appeared that the beach mouse used the seeds of switchgrass (*Panicum virgatum*) and wooly panicum (*Panicum lanuginosum*) as a food source.

Trapping data from 1971 was compared to trapping data collected in 1973 to determine whether an increase in the population of beach mice had occurred. The statistical evidence derived from that study showed that the 1.64 beach mice per acre population (based on the Lincoln Index for 1973) was slightly higher than the 0.8 and 1.4 mice per acre reported for a similar habitat. The population of beach mice was also higher in 1973 than in 1971 in the area of the test grid. The apparent increase in beach mouse population on the grid in 1973 over 1971 was probably due to the natural recovery phenomenon of a previously disturbed area (i.e., ecological succession). Some areas of the test grid have currently exceeded that preferred percentage of vegetative coverage of the beach mouse habitat, and other areas were either ideal or fast developing into an ideal habitat. If the test grid remains undisturbed and continues toward the climax species, a reduction in the number of beach mice will probably occur simply due to decline of preferred habitat.

A 1973 sweep net survey of the Arthropods of Test Area C–52A resulted in the collection of over 1,700 specimens belonging to 66 insect families and Arachnid orders. These totals represented only *one* of five paired sweeps taken over a one-mile section of the test grid. A similar study performed in 1971 produced 1,803 specimens and 74 families from *five* paired sweeps of the same area using the same basic sampling techniques. A much greater number of small to minute insects were taken in the 1973 survey. Vegetative coverage of the test area had increased since 1971. The two studies showed similarities in pattern of distribution of Arthropods in relation to the vegetation, number of Arthropod species, and Arthropod diversity. Generally, the 1973 study showed a reduction of the extremes found in the above parameters in the 1971 study. This trend was expected to continue as the test area stabilizes and develops further plant cover, thus allowing a succession of insect populations to invade the recovering habitat.

There are two classes of aquatic areas associated with the Test Area; ponds actually on the square mile area and streams which drain the area. Most of the ponds are primarily of the "wet weather" type, drying up once in the last five years, although one of the ponds is spring fed. Three major streams and two minor streams drain the test area. The combined annual flow of the five streams exceeds 24 billion gallons of water. Seventeen different species of fishes have been collected from the major streams while three species have been collected from the spring-fed pond on the grid. Statistical comparisons of 1969 and 1973 data of fish populations in the three major streams confirm a chronologically higher diversity in fish populations. However, the two control streams confirm a similar trend in diversity. Nevertheless, from examining all of the aquatic data, certain observations support the idea that a "recovery" phenomenon is occurring in the streams draining TA C–52A. These observations are difficult to document because of insufficient data. For example, in 1969, the Southern Brook Lamprey (*Ichthyomyzon gagei*) was never collected in one of the streams immediately adjacent to the area of the grid receiving the heaviest applications of herbicides; however, in 1973 it was taken in relatively large numbers. These observations may or may not reflect a change in habitat due to recovery from herbicide exposure. Residue analyses (1969 to 1971) of 558 water samples, 68 silt samples and 73 oyster samples from aquatic communities associated with drainage of water from Test Area C–52A showed negligible arsenic levels. However, a maximum concentration of 11 ppb picloram was detected in one of the streams in June 1971 but dropped to less than 1 ppb when sampled in December 1971. TCDD analysis of biological organisms from streams draining Test Area C–52A or in the ponds on the test area were free from contamination at a detection limit of less than 10 parts per trillion.

In analyses performed 3 years after the last application of 2,4–D and 2,4,5–T herbicide the test grid exhibited population levels of soil microorganisms identical to that in adjacent control areas of similar soil and vegetative characteristics not exposed to herbicides. There were increases in Actinomycete and bacterial populations in some test site areas over levels recorded in 1970. This was possibly due to a general increase in vegetative cover for those sampling sites and for the entire test grid. No significant permanent effects could be attributed to exposure to herbicides.

Data on aquatic algal populations from ponds on the one square mile grid (previously exposed to repetitive applications of herbicides) indicated that the genera present were those expected in warm, acid (pH 5.5), seepage, or standing waters.

U.S. SENATE,
Washington, D.C., May 15, 1973.

Hon. ELLIOT L. RICHARDSON,
Secretary of Defense,
Department of Defense,
Washington, D.C.

DEAR MR. SECRETARY: Section 506 of the 1971 Military Procurement Authorization Act (P. L. 91–441) includes a provision which requires the Secretary of Defense to arrange with the National Academy of Sciences to conduct a study of the use of herbicides, and the ecological and physiological effects of the defoliation in South Vietnam, and to report the results to the Congress.

The required study is scheduled to be completed and the final report submitted by September 30, 1973. As stated in the Committee report on the FY 1973 Military Procurement Authorization Bill, the Committee has followed the progress of the study through its review of the interim reports, and has been satisfied with the results of that study.

Representatives of the Office of the Director, Defense, Research and Engineers, and of the Committee staff, have recently discussed the current status of the study and arrived at the following understanding:

(a) The study is proceeding satisfactorily, and the final report is expected to be made on schedule;

(b) With the termination of hostilities in South Vietnam, the Department of Defense responsibility with respect to the study should be terminated with the filing of the final report;

(c) There are certain aspects of this problem which may warrant the initiation of a follow-on study; and

(d) No funds have been requested in the FY 1974 budget to complete the study. Prior year funds are adequate for this purpose.

If it is the opinion of the Department of Defense that any additional study, subsequent to the filing of the final report as required by law, is desirable or necessary, the Department of State, the Agency for International Development, or other non-Defense agencies, such as the Environmental Protection Agency or the Department of Health,

Education and Welfare, would be the appropriate organization to support that work. The funds required for this purpose should be rather nominal in relation to the total programs of these agencies, and, therefore, should be accommodated from available resources without requiring specific Congressional authorization and appropriation action.

It is requested that the Department of Defense discuss this matter with these various agencies in order to provide for an orderly transition of this work, if determined to be necessary, upon conclusion of the Defense related effort. If this occurs, scientific personnel in the Department of Defense may continue to participate as necessary, short of providing any direct financial support.

Copies of this letter are being sent directly to the agencies mentioned in the text, and to the other Committees of the Congress which have a possible interest.

Sincerely yours,

JOHN C. STENNIS,
Chairman.

LIST OF AGENCIES

Department of the Interior.
Department of Agriculture.
Department of State.
Agency for International Development.
Environmental Protection Agency.
National Science Foundation.
Department of Health, Education and Welfare.
Senate Committee on Foreign Relations.
Senate Committee on Appropriations.
Senate Committee on Labor and Public Welfare.
Senate Committee on Agriculture and Forestry.
Senate Committee on Interior and Insular Affairs.
Senate Committee on Commerce.
House Committee on Appropriations.
House Committee on Agriculture.
House Committee on Foreign Affairs.
House Committeee on Interior and Public Affairs.
House Committee on Interstate and Foreign Commerce.
House Committee on Merchant Marine and Fisheries.

THE EFFECTS OF HERBICIDES IN SOUTH VIETNAM—PART A—SUMMARY AND CONCLUSIONS

NOTICE

The project which is the subject of this report was approved by the Governing Board of the National Research Council, acting in behalf of the National Academy of Sciences. Such approval reflects the Board's judgment that the project is of national importance and appropriate with respect to both the purposes and resources of the National Research Council.

The members of the committee selected to undertake this project and prepare this report were chosen for recognized scholarly competence and with due consideration for the balance of disciplines appropriate to the project. Responsibility for the detailed aspects of this report rests with that committee.

Each report issuing from a study committee of the National Research Council is reviewed by an independent group of qualified individuals according to procedures established and monitored by the Report Review Committtee of the National Academy of Sciences. Distribution of the report is approved, by the President of the Academy, upon satisfactory completion of the review process.

This study was supported by Contract No. DAHC15 71 C 0211 between the Department of Defense and the National Academy of Sciences, and by funds furnished by the National Academy of Sciences.

Library of Congress Catalog Card Number 74-247.

The Committee on the Effects of Herbicides in Vietnam. Division of Biological Sciences. Assembly of Life Sciences. National Research Council.

The Effects of Herbicides in South Vietnam: Part A. Summary and Conclusions. Wash., D.C. National Academy of Sciences.

ABBREVIATIONS USED IN THIS REPORT

ARVN—Army of the Republic of Vietnam.
CINCPAC—Commander in Chief, Pacific.
CORDS—Civil Operations and Rural Development Support.
DOD—Department of Defense.
DRVN—Democratic Republic of Vietnam.
HERBS—Acronym for computerized records of herbicide spray programs.
HES—Hamlet Evaluation System of CORDS.
JUSPAO—Joint United States Public Affairs Office.
MACV—Military Assistance Command, Vietnam.
MR—Military Region.
NAS—National Academy of Sciences.
NLF—National Liberation Front.
NVA—North Vietnamese Army.
RVN—Republic of Vietnam.
RVNAF—Republic of Vietnam Armed Forces.
SVN—South Vietnam.
USAID—United States Agency for International Development.

NATIONAL ACADEMY OF SCIENCES,
Washington, D.C., February 15, 1974.

THE PRESIDENT OF THE SENATE,
THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE SECRETARY OF DEFENSE,

SIRS: I have the honor to transmit the report of the National Academy of Sciences on the effects of the program of herbicide spraying in South Vietnam. This report was prepared pursuant to Public Law 91-441 of 1970.

As the ability of organized societies to destroy each other by military means has escalated, it has become increasingly necessary to attempt to limit warfare to the actual combatants and the accomplishment of immediate military objectives. To these ends, international agreements have been directed, for example, to humane treatment of prisoners of war, respect for hospitals, recognition of military medical personnel as noncombatants, and avoidance to the extent possible of all but truly military targets. Thus, also, has our government agreed to eschew the use of biological and chemical weapons.

To be sure, given the intrinsic irrationality of war, if flame-throwers, high explosive weapons, laser-guided bombs, and all the rest are deemed to be "acceptable," one may reasonably ask how one can rationalize outlawing any other weapon or procedure on the ground that it is still more inhumane? Nevertheless, just as men of good will, in all nations, agree that a principal burden upon governments is to utilize diplomacy and negotiation—rather than arms—to settle differences, so, too, are they agreed that governments must continue to press for international agreements which, to the extent possible, will limit military actions to the achievement of immediate military ends, minimizing all other associated brutality, horror and destruction of the natural and man-made worlds. Indeed, it is the difficulty in thus containing the effective dimensions of nuclear weapons which has rendered their use so abhorrent that they have become weapons of last resort. And it was such concerns, *inter alia*, that led to the present study.

The more commonly used herbicides are synthetic chemical analogues of the hormones that, in the normal developing plant, regulate its rate and pattern of growth. Because of their specificity—causing aberrant growth or death of some plant species while without effect on others—these herbicides have found wide use in agriculture and home gardening. Indeed, the American capability to feed ourselves and also provide 70 percent of all of the food surplus, anywhere on the planet, which now can be made available to feed those in less fortunate nations, derives in significant measure from the use of this same class of chemicals.

In the course of the war in Southeast Asia, these herbicides were utilized on a large scale for military purpose, predominantly for defoliation of dense forest so as to permit detection of enemy military and supply units, and to lesser degree for crop destruction and a variety of other purposes. The general procedure was to dispense solutions of herbicides from fixed-wing aircraft or helicopters so that a fine spray would envelop the vegetation below. As the magnitude of this program increased, thoughtful individuals considered it desirable to inquire into the acute and persistent effects, if any, of such herbicide usage on the Vietnamese population as well as on the fauna and flora of the region. Presumably, the findings of such an examination could (a) contribute to the assessment of damage to Vietnam which will be required to plan future efforts to reconstruct that country and repair the ravages of war, and (b) assist in judgment as to whether, in the future, such herbicide usage should be considered to fall within or outside the category of chemical warfare to be eschewed, as defined in the Geneva protocols.

As an expression of this concern, the Congress, in Public Law 91-441, directed that:

(1) The Secretary of Defense shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a comprehensive study and investigation to determine (A) the ecological and physiological dangers inherent in the use of herbicides, and (B) the ecological and physiological effects of the defoliation program carried out by the Department of Defense in South Vietnam.

(2) Of the funds authorized by this Act for research, development, testing, and evaluation of chemical warfare agents and for defense against biological warfare agents, such amounts as are required shall be available to carry out the study and investigation authorized by paragraph (1) of this subsection.

On 26 October 1970, by a letter addressed to the Director of Defense Research and Engineering, the Academy accepted this responsibility. The Academy has a long tradition of scientific assistance to the national defense and it desires also to be of whatever assistance it can in furthering our ability to minimize the undesirable secondary consequences of warfare without sacrificing the capability of the American military establishment to assure the national defense. Hence, with the understanding that the resultant report to the Department of Defense and to the Congress would be made public, we were pleased to accept this task. Contract DAHC15 71 C 0211 between the Academy and the Department of Defense, to provide funds and other support for this endeavor, was signed on 8 December 1970.

Arrangements for the study: As we entered upon the task, some of its inherent difficulties were self-evident: Appraisal of the effects of herbicide usage, necessarily, had to be undertaken well after the fact. Since the war in South Vietnam was certainly not conducted as a controlled experiment, valid conclusions might well be seriously constrained by the complexity of actual circumstances, by lack of adequate records or qualified observers on the scene at the time of the spraying program. Patently, separation of the effects of herbicides from all other aspects of the war would be difficult at best. Most im-

portantly, military activity was and still is continuing in most of the areas which had previously been sprayed with herbicides; accordingly, safe access to large areas of the country was denied to our field teams, thereby in no small measure frustrating their efforts to secure critical data. Indeed, several of our Committee now know the sensation of being in an airplane subjected to fire from the ground.

The present report was prepared by an especially appointed *ad hoc* Committee on the Effects of Herbicides in Vietnam, working, administratively, within the Division of Biology and Agriculture of the National Research Council. Each member of the Committee was especially selected for his specific technical competencies. Professor Anton Lang of Michigan State University, a member of the Academy, renowned plant physiologist and authority on plant hormones accepted the invitation to chair the Committee. A deliberate decision was taken to enroll, as full-fledged members of the Committee, a number of scientists from countries other than our own. A distinguished Vietnamese scientist, Professor Le-Van-Thoi, President of the National Scientific Research Council of Vietnam, agreed to serve as Associate Chairman; other members are from South Vietnam, Canada, England and Sweden.

The early planning for this study indicated the desirability of including, on the Committee, one or more appropriately qualified anthropologists. However, formation of the Committee was significantly delayed when anthropologists indicated their reluctance to be associated with this effort because the supporting funds were to be provided through the Department of Defense, an attitude formalized by the American Anthropological Association. A meeting to resolve this question, arranged by the Division of Behavioral Sciences of the National Research Council, was attended by several senior anthropologists, albeit not as formal representatives of the American Anthropological Association. Subsequently, one senior anthropologist undertook to serve without any qualifying reservations, while another agreed to participate provided that the funds to be utilized in support of his specific activities, within this project, would derive from some source other than the Department of Defense. Concerned that the study be neither unduly delayed nor seriously incomplete, the use of private funds from the endowment income of the Academy was authorized for this purpose.

When the study began, it was recognized that much of the basic information concerning herbicide usage in South Vietnam was classified by the Department of Defense and not available to the public. In an exchange of correspondence on this subject, the Defense Director of Research and Engineering indicated that:

"I would like to assure that all information which may be required in its conduct will be supplied by the Department of Defense regardless of classification."

Subsequently, he wrote that:

"This acknowledges your letter of 26 October recommending declassification of DoD data on herbicides for use by the National Academy of Sciences study.

"I agree that your committee must have access to these data and that they should be declassified. However, premature release of these data, and their subsequent partial evaluation and publication by either scientists or journalists prior to publication of your study, would not be in the best interests of either of us. I suggest that the data should be restricted to the use of your committee until your report is published. At that time the data could be placed in the public domain. . . ."

Later, in a letter concerned with various detailed arrangements for the study, I stated that:

"It is further understood that the Department is prepared to make available on a privileged but otherwise non-classified basis all information and data in its possession directly related to the matters under consideration as well as full access to various civilian and military personnel whose particular experience and information may be considered necessary in the development of the study program. . . ."

On this basis, without requirement for security clearance of those Committee members who had not previously undergone clearance for other reasons, the work was undertaken.

The present report is only a summary of the full activities and findings of the Committee; a more complete account will be made available as soon as possible. This summary report has been subjected to an unusually intensive review by an *ad hoc* panel of Academy members appointed by our Report Review Committee. In a constructive dialogue, the authors of the report responded to numerous questions, suggestions and criticisms of the review panel.

FINDINGS AND CONCLUSIONS OF THE REPORT—A COMMENTARY

The report provides its own summary and recommendations. It may, however, be of assistance to the reader to comment upon some of the principal findings of the report and their significance.

(1) The Committee was unable to gather any definitive indication of direct damage by herbicides to human health. However, to a greater extent than in other areas, there were consistent, albeit largely "secondhand," reports from Montagnards, of acute and occasionally fatal respiratory distress, particularly in children. The inability of the Committee to visit the Montagnards in their own locales so as to verify these tales, is greatly regretted. Although these reports did not come from medically qualified observers, the Committee considers it to be important that this matter be pursued at the earliest opportunity.

Considerable attention was paid to the possibility, suggested previously, of birth defects induced by herbicides or by contaminants in herbicide preparations; no evidence substantiating the occurrence of herbicide-induced defects was obtained. However, the potentially most definitive aspect of this examination has not yet been completed.

(2) Attempts to assess the social, economic and psychological effects of the program of herbicides spraying on the peoples of South Vietnam were less than satisfying. Certainly the impact of the spraying program on that population now appears relatively trivial as compared with other aspects of the upheaval in that country. Evidence was obtained that numbers of families moved away from their traditional homes because of the herbicide spray program, but few were actually identified. The fertility of their land, however, was not reduced thereby and it should not be residual effects of the crop destruction program, *per se*, which prevents their return. On the other hand, small land holders growing tree crops, e.g., coconuts, definitely suffered more lasting economic damage.

Other than the belief reported to be prevalent among the Montagnards that spraying was directly responsible for acute illness, by and large the South Vietnamese appear to hold no consistent views with respect to alleged health hazards resulting from exposure to herbicide spraying, although many are greatly concerned with this possibility. Only in part did such fears as were expressed appear to find their origin in propagandistic activities.

Although available toxicological information had indicated that, within a considerable dosage range, the herbicidal compounds are relatively innocuous, no sizeable human population had previously been thus exposed. Moreover, at the time the program began, it was not known that preparations of the herbicide, 2,4,5–T, were contaminated with the extraordinarily toxic compound, TCDD (2, 3, 7, 8-tetrachlorodibenzo-para-dioxin), about 200 to 300 pounds of which, mixed with about 50 million pounds of 2,4,5–T, were dispensed over South Vietnam. That no serious sequelae have since been definitely discerned is fortunate indeed. However, the continued presence of possibly significant concentrations of this material in fish in inland rivers, taken as recently as 1973, is considered to be a matter that warrants further attention.

On balance, the untoward effects of the herbicide program on the health of the South Vietnamese people appear to have been smaller than one might have feared.

(3) The effects of herbicides on vegetation were largely confined to those resulting from direct contact during spraying. It was found that the various herbicides disappear from the soil at a rate sufficiently rapid as to preclude any significant effect on the next crop of food plants, or on the next growing season of trees, shrubs, etc.

All evidence indicates that standing food crops, of all sorts, were highly vulnerable to the spray program. It was not possible, however, to assess the nutritional consequences of that program on the affected local populations.

(4) A major effort of the Committee was devoted to appraisal of the effects of the herbicide spraying program on the forests of South Vietnam.

(a) The mangrove forests were found to have been extremely vulnerable. One spraying resulted in the death of virtually all exposed trees, in this case, about 36 percent of the entire mangrove forest, equal to about 0.6 percent of the entire area of South Vietnam. It is estimated that these forests will not spontaneously recover for well nigh a century, if at all; reforestation by a program of massive planting of seedlings could reduce the time required to about two to three decades.

Concomitant with this devastation has been a significant reduction in the more valuable fauna of the waters of the region; however, several other changes appear to have been contributory at the same time, and it is difficult to know how significant the death of the mangroves was to this process. The dead mangroves are being harvested for fuel now, as in the past, although this occupation supports fewer individuals today than before the war. The economic loss, therefore, will be sustained in the future, when the forest has been stripped, unless a vigorous replanting program is undertaken. If this is not done, mankind will have been guilty of a large and ugly depredation of our natural heritage.

(b) The bulk of the herbicide spraying program was addressed to the large inland forests of South Vietnam; of the total of about 25.9 million acres of such forests, at least 10.3 percent (6.5 percent of the total land area of South Vietnam) was subjected to one or more sprays. Unfortunately, for lack of military security, this area could not be examined on the ground by the Committee. The appraisal of herbicide effects in the inland forests, therefore, necessarily rested virtually entirely upon interpretation of aerial photography, some of which was already available but most of which was obtained at the request of the Committee. Unfortunately, photointerpretation of damage to an essentially unfamiliar forest is extremely difficult; quantitative estimates may be accepted as reasonably reliable only if an acceptable sample can also be checked on the ground. Although no such opportunity was available, the Committee had no other alternative.

No other aspect of these studies engendered difficulty and controversy as did the estimate

of damage to the inland forests. The original approach to this question was to appraise the damage in terms conventional to professional forestry, viz., the volume of "merchantable timber" represented by standing dead "merchantable trees," i.e., trees of such size and quality as to have been candidates for timbering by the commercial practices of the region. Assessment was undertaken in these terms because a) it limits the assessment to the larger trees, more readily identified by aerial photography, b) such an assessment might make possible an estimate of economic loss, and c) preliminary estimates, in these terms, had already been published. Trees which have disappeared are not counted by this procedure and standing trunks of large trees which have lost much of their crowns may be difficult to identify. more valuable species commonly stand for several years before falling.

When the initial estimate, in these terms, proved to be strikingly smaller than previously reported preliminary estimates by others, it encountered scientific incredulity among members of both the working Committee and the Report Review panel and engendered, in varying degree, an antagonism which was conditioned by the turbulent emotions which are the legacy of the American experience in the Vietnam war. While the latter situation lasted, it hindered process of the study by focusing attention on this single parameter. For months, it diverted attention from full appreciation of the fact that such a summarizing, overall figure can be truly meaningful only if a single spraying were uniformly damaging, as it is to the mangroves, and from appreciation that such a figure cannot reveal differential effects of one spraying as compared with multiple sprayings, differential effects on different types of forest, or on the merchantable trees as compared either with the growing stock or with trees of non-merchantable quality—were there any such differential effects.

The resultant challenges to the estimate ultimately proved useful. Intensive rescrutiny of the data by the Committee resulted in significant upward revision of the quantitative estimate of damage and directed attention to the differential effects that the report now emphasizes. The report reveals that the Committee now considers that multiple sprayings will be devastating to any forest, as it was to these, and that even a single spraying can be very serious in relatively open forest and lethal to forests of particularly susceptible species. It remains possible that the Committee's estimate of the gross kill of merchantable timber will prove to be significantly lower than reality; if so, that will certainly be meaningful, but it no longer seems to be the central question. The extent and nature of total damage to the forest cannot adequately be expressed by this single statistic.

Meanwhile, months of intensive discussions, joint inspections of photographic material, refinement of procedures and of calculations, challenges and rebuttals were required in order to erase suspicion and relieve discord. To the extent that there remains concern for the accuracy of the Committee's estimate of the loss of merchantable timber in the inland forest (see below), that concern should now rest solely on scientific grounds. This painful episode is recounted in further evidence of the multitudinous, sometimes subtle effects of the Vietnam war on the American people.

The Committee's final estimate of the total volume of merchantable timber in standing merchantable trees killed by herbicides in the inland forest is about 1,250,000 m^3, i.e., within a range of from 500,000 to 2,000,000 m^3, out of a total stock of "merchantable timber" in the sprayed area estimated to be about 8,500,000 m^3. The records are known to underestimate the total sprayed area; both estimates are, hence, understated proportionally.

When the fact of the disparity between the Committee's original estimate and previous estimates was recognized, as team of three independent photo interpreters and forestry experts was invited to review the procedures which had been used and to make an independent appraisal of the total damage to the inland forests, utilizing the photographic materials available to the Committee. Their estimate, based on a necessarily limited examination of the available material, was of the order of the top of the range now reported by the Committee. However, one member of this group, after a second examination of the photographic material suggested that the loss of merchantable timber may be a few times greater than that here reported by the Committee. In addition, a member of the Report Review panel has informed his colleagues that, also utilizing some of the materials gathered by the Committee, he estimates the amount of merchantable timber in the trees killed by herbicides in the inland forest to be significantly greater even than that estimated by the independent consultant. He has been invited to publish his analysis in the open literature.

The differences among these estimates arose from differences in the actual counts of dead trees in a given sample area, the specific samples used and the validity thereof, of the total volume of merchandisable timber assumed to have been in the forest before the spraying, etc. It may be noted that the sample areas examined by the Committee were decidedly larger than those utilized in formulating the other estimates and that the Committee gave considerable attention to weighing the relative contributions of those areas which had been sprayed zero, once, twice, thrice, or four or more times. However, it is not clear to what extent these differences contributed to the differences among the results. Patently, definitive resolution of these substantial differences will not be possible until an appropriate survey of the area can be made on the ground.

It is not clear, in any case, what social, economic or ecological significance to impute to the estimated parameter, i.e., the volume of "merchandise timber" killed by the spraying. As long as the dead trees stand, they do not necessarily represent "economic loss" since, were peace restored, there would still be opportunity to timber many of these trees, provided that the necessary labor and mill capacity were available. Similarly, trees killed by herbicide spraying that have disappeared because they were taken down for timber or fuel do not represent economic loss.

Accordingly, the Committee sought other indicators of the extent of damage to the forest. Several other observations by the Committee seem more descriptive of the consequences to the forest of the spraying program than is the absolute value assigned to the volume of merchantable timber killed by herbicides:

(i) Two-thirds of the area sprayed in the inland forest was sprayed only once. The dead merchantable trees in such areas, in excess of those expected from normal mortality, were found to be rather variable and generally few in number. The impression was gained that most of these areas, particularly in the dense forest, will spontaneously recover in due course, with the distribution of species probably much as it was before.

(ii) The number of dead merchantable trees per unit area increased with multiple spraying. Areas sprayed three or more times were extremely hard hit; in some areas more than half of all "merchantable trees" were killed. These areas, perhaps 12 percent of the total sprayed area, are unlikely to recover without a major effort at assistance.

(iii) The bulk of the biomass in much of the forest consists of non-merchantable trees, viz., trees below merchantable size (growing stock) or of non-merchantable quality. When killed, these trees generally decompose and disappear much more rapidly than do "merchantable trees." Although quantitative estimation of damage to this component of the forest biomass is not feasible by aerial photography, the Committee notes that the loss of such material due to herbicide spraying was extensive in relatively open forest and less serious in the dense, heavily canopied forest; as a very rough approximation the Committee suggests that the loss of such material may have been of the order of 5 to 13 million m^3. The report further notes that:

"One clear conclusion reached by the Committee is that the greatest damage which the inland forests suffered from war activities, including herbicides, has been incurred by the heavily overused open or thin forests and by the young secondary forests emerging from abandoned swidden. This damage does not appear in the assessment of merchantable timber loss since it represents loss of growing stock below merchantable size and of the early stages of forest regeneration. In these forests the loss of seed sources may be a very critical factor even though the merchantable volume of lost seed trees was quite small. High mortality of seedlings, saplings and young trees, not reflected in merchantable timber loss, in many cases resulted in setting the succession back for many years. But this loss, though very real, could not be quantitatively evaluated without far more extensive studies on the ground than those we were able to conduct.

Damage due to bombing and shelling, whether or not it was associated with herbicide treatment, may well be the most serious and long lasting of all of the war impacts on the inland forest. In the large areas cleared by bombings, not only the merchantable timber, when present, was destroyed but so was all of the growing stock in the opening. Extending far beyond the dimensions of the opening in the forest created by the bomb strike is the damage to living trees caused by shrapnel. These metal fragments in the living trees have already created serious problems for the manufacturers of forest products in SVN in terms of equipment maintenance, loss of yield, reduction in mill productivity and serious hazards to the operating personnel, and these problems will persist long after the residual effects of herbicide damage have disappeared. These problems may indeed reduce the opportunities to sell South Vietnamese logs in the international market and to establish new wood-using industries in SVN . . .

Future development of a viable forestry program in SVN, including forest management and development of utilization facilities, will have to be based upon study of the unusual combination. Areas where growing stock has been depleted and where regeneration has been inhibited will need to be given special treatment to restore productivity. The longer the delay in taking these measures the more difficult and costly will be the rehabilitation.

Thus, whereas one cannot rationally assign some dollar value to the herbicide-caused economic loss to Vietnam, either in the past or the near future, there will be serious penalties in the long term unless a commensurate effort is undertaken to prevent them. And, as in the case of the mangroves, there is the burden of conscience to restore these forests to their natural or improved condition.

The Academy is grateful to the Committee, its staff, its consultants, and our reviewers, all of whom gave unstintingly of themselves in the major effort herewith reported .

This highly informative report cannot, by itself provide definitive answers to all of the questions held by the Congress at the

time of passage of Public Law 91-441. However, considering the adverse circumstances under which it was prepared, we consider the report to be a most significant accomplishment. We trust that it will prove to be a meaningful contribution to understanding and a useful guide for future decisions.

Respectfully yours,

PHILIP HANDLER,
President.

NATIONAL RESEARCH COUNCIL,
Washington, D.C., February 11, 1974.

Dr. PHILIP HANDLER,
President, National Academy of Sciences, Washington, D.C.

DEAR DR. HANDLER: I am herewith transmitting to you the summary report of the Committee on the Effects of Herbicides in Vietnam.

When, almost exactly three years ago, I agreed to direct this study as Committee chairman, I questioned whether the study of one particular impact of the war in South Vietnam would be very productive. It was clear even then that the country had suffered from many war related disturbances and that the effects of such would be closely intertwined; to disentangle one effect would neither be easy, nor provide a comprehensive assessment of the consequences of its use.

My concern over the feasibility of this assignment was deepened with my first visit to South Vietnam. It became very clear at that time that the accounts which we had been given of the improved security and safety situation, while perhaps quite true for cities and larger settlements, did not apply to outlying areas—especially the mangrove and inland forest—which had been exposed to the heaviest herbicide sprayings and which therefore we needed to visit and study in detail. I accepted your appointment despite these handicaps because of my belief in the importance of determining the nature and scale of these effects and because the longer the assessment might be delayed, the lesser became the prospects of obtaining meaningful data. I believe these feelings were shared by all those who accepted appointment to the Committee.

The limitations within which the Committee had to work necessitated some profound and often agonizing revisions in our plans; agonizing in that we often had to accept less than ideal alternatives, whether in regard to the extent of a study or the techniques utilized. There was one principle that was maintained on which I and the members of the Committee from the outset had placed the greatest importance: our studies must be approached in a *quantitative* manner. However, the extent to which a problem could be so studied under these conditions varied greatly. An inventory of the herbicide operations—what fraction of the various vegetation types had been sprayed, and how many times—was done for the whole country. Damage to inland forests was assessed on a substantial and representative sample. Impact on settlements was studied in 18 areas reaching from the southernmost tip of the country to the latitude of the City of Hue in the north. Other studies could be done only in one or a few selected sites, and generalizations, if any, made only with strong qualifications. In some important problem areas, our results did not permit any conclusions. This quantitative approach, although it limited the extent of problems which could be studied, was preferable to collecting a larger quantity of qualitative, anecdotal data inasmuch as these latter would not have permitted *any* generalizations.

To the extent possible in a study of this nature, all results and conclusions are documented by data. However, the supporting material gathered by the Committee is voluminous and is both quantitative and qualitative. Much of it is in the form of working documents prepared by individual Committee members and/or consultants and will be submitted for publication in the near future. It should provide further opportunities for study and analysis by others who may follow.

To my regret, it has not been possible to obtain a consensus of all Committee members on all sections of this report. Professors Pham Hoang Ho, Alexander Leighton, and Paul Richards have disassociated themselves from the section dealing with the quantitative assessment of damage to the inland forests (IV B 3). Their statements of exception are reproduced in a section immediately following the text of the report. I respect their exceptions although I believe the assessment of forest damage was conducted by individuals with great experience and an impeccable record in forest surveys of this nature. I must add that this study was very complex indeed and spans a very wide spectrum of disciplines. Therefore, the individual members of the Committee should not be held accountable for every part of the entire report.

In presenting this report I wish to recognize and commend to you the enormous contribution of the members of the Committee. They remained dedicated even when it became necessary to scrap or alter study plans, and although all were engaged with other pressing commitments they never refused to place at our disposal their time, their thought, or their personal convenience. The consultants and associates of the Committee also deserve highest praise, as does the Committee staff and especially the Committee's principal staff officer.

Respectfully,

ANTON LANG,
Chairman.

COMMITTEE ON THE EFFECTS OF HERBICIDES IN VIETNAM

Anton Lang, Chairman, Director, MSU/AEC Plant Rsearch Laboratory, Michigan State University, East Lansing, Michigan 48824.

Lê-Văn-Thói, Associate Chairman in Charge of Liaison wih Vietnamese Scientists, President, National Scientific Research Council of Vietnam, Atomic Energy Office, 291, rue Phan-thank-Gian, B.P. Q-16, Saigon, Vietnam.

Ewert Åberg, Head, Department of Plant Husbandry, Agricultural College of Sweden, S-750 07 Uppsala 7, Sweden.

James S. Bethel, Dean, College of Forest Resources, University of Washington, Seattle, Washington 98105.

Geoffrey E. Blackman, F.R.S., Department of Forestry, Oxford University, Oxford, England OX1 3RB.

Robert F. Chandler, Jr., Asian Vegetable Research & Development Center—(AVRDC), P.O. Box 42, Shanhua, Tainan, Taiwan (741), Republic of China.

William B. Drew, Department of Botany & Plant Pathology, Michigan State University, East Lansing, Michigan 48824.

F. Clarke Fraser, Department of Biology, McGil' University and Montreal, Childrens' Hospital, Montreal, Quebec, Canada.

John D. Fryer, Director, Weed Research Organization (Agricultural Research Council), Begbroke Hill, Sandy Lane, Yarnton, Oxford, England OX5 1PF.

Frank B. Golley, Jr., Executive Director, Institute of Ecology, The Rockhouse, University of Georgia, Athens, Georgia 30601.

Pham-Hoang-Ho, Department of Botany, Faculty of Science, 227 Cong-hoa Street, B.P. A-2, Saigon, Vietnam.

Peter Kunstadter, Department of Epidemiology, University of Washington, Seattle, Washington 98195.

Alexander H. Leighton, Head, Department of Behavioral Sciences, Harvard School of Public Health, 55 Shattuck Street, Boston, Massachusetts 02115.

Howard T. Odum, Department of Environmental Engineering, University of Florida, Gainesville, Florida 32601.

Paul W. Richards, C.B.E., School of Plant Biology, University College of North Wales, Bangor, Caernarvonshire, Wales, U.K.

Fred H. Tschirley, Pesticides Coordinator, U.S. Department of Agriculture, Office of the Secretary, Washington, D.C. 20250.

Paul J. Zinke, School of Forestry & Conservation, University of California, Berkeley, California 94720.

NAS/NRC STAFF

Philip Ross, Executive Secretary.
Joseph M. Carrier, Staff Officer.
Selma P. Baron, Administrative Secretary.
Christina C. Stephens, Secretary.

NAS/NRC RESEARCH ASSOCIATES

Jeary Adrian Glenn.
Neil L. Jamieson, III.
Gary D. Murfin.
A. Terry Rambo.

CONSULTANTS TO THE COMMITTEE ON THE EFFECTS OF HERBICIDES IN VIETNAM

Paul T. Baker, Department of Anthropology, Pennsylvania State University, University Park, Pa. 16802.

Steven J. Berman, Assistant Professor of Tropical Medicine, University of Hawaii, Leahi Hospital, 3675 Kilauea Avenue, Honolulu, Hawaii 96816.

Arthur A. Breitsprecher, College of Forest Resources, University of Washington, Seattle, Washington 98195.

Pham-hông-Chùòng, National Agricultural Institute, 45 Cùòng De Street, Saigon, Vietnam.

George M. Davis, Associate Curator of Malacology, The Academy of Natural Sciences, 19th & The Parkway, Philadelphia, Pa. 19103.

Robert Desowitz, Professor of Tropical Medicine, University of Hawaii, Leahi Hospital, 3675 Kilauea Avenue, Honolulu, Hawaii 96816.

Donald P. de Sylva, University of Miami, School of Marine & Atmospheric Sciences, 10 Rickenbacker Causeway, Miami, Florida 33149.

Duane J. Gubler, Assistant Professor of Tropical Medicine, University of Hawaii, Leahi Hospital, 3675 Kilauea Avenue, Honolulu, Hawaii 96816.

Roger T. Hanlon, University of Miami, School of Marine & Atmospheric Sciences, 10 Rickenbacker Causeway, Miami, Florida 33149.

Chamlong Harinasuta, Dean, Bangkok School of Tropical Medicine, Bangkok, Thailand.

William T. Hatheway, College of Forest Resources, University of Washington, Seattle, Washington 98195.

Gerald C. Hickey, Southeast Asia Program, Cornell University, Ithaca, New York 14850.

Raymond F. Hixon, University of Miami, School of Marine & Atmospheric Sciences, 10 Rickenbacker Causeway, Miami, Florida 33149.

LeRoy Jones, 30 Irving Street, Apt. 3, Cambridge, Massachusetts 02138.

Edward B. Knipling, U.S. Department of Agriculture, ARS, P.O. Box 225, Stoneville, Mississippi 38776.

Alan E. Krusinger, U.S. Army Engineer Topographic Laboratories, Georgraphic Sciences Laboratory, Fort Belvoir, Virginia 22060.

James Low, University of Miami, School of Marine & Atmospheric Sciences, 10 Rickenbacker Causeway, Miami, Florida 33149.

Jane M. Murphy, Associate Professor of Anthropology, Department of Behavioral Sciences, Harvard School of Public Health, 55 Shattuck Street, Boston, Massachusetts 02115.

Michael Newton, Associate Professor, Forest

Ecology, School of Forestry, Oregon State University, Corvallis, Oregon 97331.

Harding B. Owre (Michel), University of Miami, School of Marine & Atmospheric Sciences, 10 Rickenbacker Causeway, Miami, Florida 33149.

Nguyen-Khoa Phon-Anh, The Center for Vietnamese Studies, 212-A, Tran Hung-Dao Boulevard, Saigon 2, Vietnam.

Warren C. Robinson, c/o Population Council, P.O. Box 2-75, Bangkok 2, Thailand.

Sanga Sabhasri, Secretary General, National Research Council of Thailand, Bangkok, Thailand.

Howard J. Teas, Biology Department, University of Miami, P.O. Box 9118, Coral Gables, Florida 33124.

William L. Thomas, Department of Geography, California State University, Hayward, California 94542.

Robert C. Trumbull, University of Miami, School of Marine & Atmospheric Sciences, 10 Rickenbacker Causeway, Miami, Florida 33149.

Luong Tan Tuoc, Department of Forestry, National Agricultural Center, 45 Cuong De Street, Saigon, Vietnam.

Kenneth J. Turnbull, College of Forest Resources, University of Washington, Seattle, Washington 98105.

Charles P. Weatherspoon, U.S. Army Engineer Topographic Laboratory, Geographic Science Laboratory, Fort Belvoir, Virginia 22060.

Bernard J. Yokel, University of Miami, School of Marine & Atmospheric Sciences, 10 Rickenbacker Causeway, Miami, Florida 33149.

The Effects of Herbicides in South Vietnam

SUMMARY

Origin of the Study (Section I) [1]

The study had its origin in the widespread public concern that the extensive use of herbicides in the Vietnam war may have had serious adverse effects, perhaps irreversible, on environment and people, major economic losses because of damage to forests and crops, and reproductive failures, congenital malformations, and genetic damage in humans.

In response to this public concern, Congress in late 1970 directed the Department of Defense (DOD) to contract with the National Academy of Sciences (NAS), for a study of the ecological and physiological effects of the widespread military use of herbicides in South Vietnam (SVN). A 17-member committee, with additional professional staff and 30 consultants, carried out the study, which included field, laboratory, and library research. Some 1,500 man-days were spent in SVN during the course of the study, the results of which are discussed in the following report. Additional technical details are available in the public records of the Committee.

The Committee conducted work on the following:

1. Inventory of the sprayed areas by herbicide type, date, and frequency of spray application as related to vegetation types and to population density.

2. Effects on vegetation, with emphasis on the inland and mangrove forests—the two vegetation types subjected to the most extensive herbicide spraying—and also with consideration of effects on crop production.

3. Persistence of herbicides in the soil, and their effects on soil fertility, i.e., on the content of essential nutrients available to plants.

4. Effects on animals (limited to studies on animal populations in estuaries, and on the populations of disease vectors, both in the mangrove).

5. Effects on people (medical, socioeconomic, psychological).

The extent to which these problems could be effectively dealt with was highly variable. The Committee could construct only a tentative initial program; this had to be modified repeatedly in the course of the work. The principal limitation to the Committee's work was the security conditions in SVN, which rendered long-term field studies virtually impossible. Moreover, the Committee started its work in SVN in September 1971, while all major herbicide operations were terminated early in that year; the Committee had somewhat over one year for gathering most of its materials. Hence, on the one hand, relatively short-term effects were difficult to study; on the other hand, except where detailed historical information such as aerial photographs were available, research was limited to short periods of time, whereas some of the effects, for example on succession of vegetation in forests, are long-term ones. Statistics and inventories on SVN population, forestry, and agriculture were not available or did not contain sufficient detail to allow quantitative assessments of many herbicide effects, particularly at the national level. Despite these limitations, we carried out field studies on a number of problems (effects on vegetation and soils, persistence of herbicides in soils, effects estuarine life and on ecological-epidemiological effects of defoliation, and on the perception of herbicides and their effects by humans), and the available documents, including extensive aerial photography, were examined and evaluated.

History of military use of herbicides in South Vietnam (section II B)

The military use of herbicides in SVN began in 1962, was greatly expanded in 1965 and 1966, and reached a peak in 1967–69 (see Table I). After it was reported that 2,4,5-T, one of the components of the most extensively used herbicide preparation, Agent Orange, caused birth defects in mice, the use of this agent was stopped in 1970, and, during 1971, application of herbicides under U.S. military control was rapidly phased out. According to records available to the Committee, fixed-wing operations ceased in 1971, and other applications in October of that year. The herbicide agents used in the Vietnam war and the application rates are shown in Table II.

The herbicides used in the Vietnam war (section II C)

The herbicides used for military purposes in SVN are among a considerable number of chemical compounds utilized widely for the control of weeds and unwanted vegetation, although the application of some of them, in the United States and some other countries, is limited to specific purposes. They are selected because they can be manufactured cheaply and in large quantities, but also for physical, chemical, and biological characteristics that minimize undesired side effects. They have been used worldwide in large quantities, on the whole without causing serious hazards. There is considerable information on their properties, such as solubility and volatility, effects on plants, behavior in soil, toxicity on and behavior in animals, although the amount of this information is greater for some (2,4-D and 2,4,5-T) than for others (picloram, cacodylic acid).

TABLE I.—APPLICATION OF HERBICIDES IN THE VIETNAM WAR BY YEAR

[Millions of gallons]

Year	1962 to July 1965	August to December 1965	1966	1967	1968	1969	1970	1971	Total
Orange	(1)	0.37	1.64	3.17	2.22	3.25	0.57	0	11.22
White	(1)	0	.53	1.33	2.13	1.02	.22	.01	5.24
Blue	(1)	0	.02	.38	.28	.26	.18	0	1.12
Total	1.27	.37	2.19	4.88	4.63	4.53	.97	.01	18.85

[1] Not available.

TABLE II.—HERBICIDES USED IN SVN 1965–71

Agent	Active chemical components	Military application rate (pounds per acre)	Millions of gallons used, August 1965–71
Orange	2,4-D	12.00	
	2,4,5-T	13.80	11.22
White	2,4-D	6.00	
	Picloram	1.62	5.24
Blue	Cacodylic acid	9.30	1.12
Total			17.58

In the form present in Agent Orange, 2,4–D and 2,4,5–T are little soluble in water but are moderately volatile. In soil, they undergo rapid breakdown (2,4–D more rapidly than 2,4,5–T). These properties indicate that the two compounds will not readily move in soil and water, though some movement as vapor does occur. 2,4–D in the form present in Agent White, and the other component of this agent, picloram, are non-volatile but highly water-soluble, and picloram is more persistent in soil than 2,4–D or 2,4,5–T. Thus, while there is no hazard of movement in vapor form, there is some hazard of movement with water, both in soil and by rain. Cacodylic acid, the active component of Agent Blue, is also non-volatile and water-soluble but decomposes rather rapidly to non-

[1] Section numbers refer to sections in the body of this report.

soluble, relatively non-toxic aresenical compounds in soil and water.

2,4–D, 2,4,5–T, picloram, and cacodylic acid are distinctly toxic but only when ingested or absorbed in relatively large amounts. The toxicity of 2,4–D and 2,4,5–T is somewhat greater than that of picloram and cacodylic acid. 2,4–D and 2,4,5–T are rapidly excreted in unchanged form by most animals, and there is no evidence for accumulation in any tissues or in the food chain. Some derivatives of the two herbicides, including those present in Agent Orange, seem, however, to possess a relatively high toxicity for some aquatic animals.

In 1969, both 2,4–D and 2,4,5–T were reported to produce birth defects in laboratory animals. At about the same time, it was recognized that 2,4,5–T contained a contaminant, TCDD (2,3,7,8–tetrachlorodibenzo-paradioxin), an extremely toxic material that also possessed teratogenic properties. However, whereas some of the birth defects in laboratory animals, which had originally been ascribed to 2,4,5–T were actually caused by TCDD, it appears that 2,4,5–T has some teratogenic potential of its own, although at relatively high doses. Tests with 2,4–D were less conclusive.

TCDD, a contaminant of 2,4,5–T (section II C–2, C–5)

TCDD is extremely toxic to some laboratory animals. In male guinea pigs, the most sensitive animal so far found, a single dose of 0.0006 milligrams per kilogram body weight causes death in half of the animals fed. In other animals (rats, mice, rabbits) the corresponding dose is considerably higher, in the range of 0.05 to 0.2 milligrams per kilogram. TCDD has been found to be teratogenic in mice; results with other laboratory animals have not been conclusive. The lethal dose in humans is not known, nor is that required to cause birth defects, if indeed there is such an activity. TCDD is strongly implicated as the main cause of chloracne, a disease that has affected employees in some plants manufacturing 2,4,5–T or its precursor, 2,4,5–trichlorophenol. TCDD apparently decays very slowly under normal environmental conditions, indicating that its potential hazards may be very persistent.

Inventory of the military use of herbicides in South Vietnam (section III)

The Committee conducted as thorough as possible an inventory of the herbicide operations in SVN, as the basis for assessing the effects of these operations on vegetation, soils, and people. The main source used was the HERBS tape, a computerized record of time, place, amount, type, and military purpose of herbicide operations carried out by aircraft between August 1965 and February 1971 (plus a printout covering the period March through October 1971, the stated termination of the U.S.-controlled herbicide operations).

The material, which covers about 85 percent of all herbicide operations in SVN, was evaluated in conjunction with the help of a vegetation map and aerial photographs in order to determine the distribution of herbicides with respect to vegetation types. Their distribution with respect to population and to settlement types in the whole country could not be studied, because relevant material was received too late. Results of such studies in selected areas are summarized under "Human Reactions to Military Use of Herbicides," Items 1–3, see below.

The number of gallons sprayed in SVN is shown in Tables I and II, the areas sprayed once, twice, and more times in Table III. The total area of SVN that was sprayed is somewhat larger than the area of Connecticut, while the entire country (approximately 44.6 million acres) equals in size this state plus Rhode Island, Maine, Vermont, New Hampshire and Massachusetts.

About 88 percent of the herbicide missions recorded on the HERBS tape were designated for defoliation, about 9 percent were for crop destruction, and the remaining 3 percent were directed at base perimeters, enemy cache sites, waterways, and lines of communication. There was little relationhsip between recorded purpose and distribution of sprays with respect to native vegetation type, although a relatively greater proportion of the crop-destruction missions employed Agent Blue, and all these missions were flown in the northern two thirds of SVN. Regardless of the stated purpose of the mission, about three quarters of the total gallonage was sprayed over inland forests, about 8 percent over mangrove forests, and a little over 7 percent over permanently cultivated areas (see Table III). Crops were affected, however, to a greater extent than indicated by the latter figure because temporary fields ("swiddens") such as those customarily cultivated by the Highlanders (Montnagards) were classified as "forest," and because field crops were damaged by drift of herbicides outside the intended or recorded spray path.

HERBICIDE DAMAGE TO VEGETATION (SECTION IV)

Death of and damage to vegetation caused by herbicides can have many different consequences: loss of potential production at a stage before the growth becomes economically valuable; loss of commercial products such as timber, grain and fruit; lack of young plants and of seeds necessary to maintain the "system," the latter type of effect being particularly important in native vegetation. The Committee studied herbicide SVN: the inland forest, the mangrove forest, damage to three major vegetation types of and (permanently) cultivated land. Information on effects on the last-named type (crop damage) was obtained mainly in a study of effects on settlements and by interviews with villages, and the results are therefore reported under "Effects of Herbicides on Humans." With the exception of extensively sprayed mangrove forests, aerial photographs showed that vegetation cover of some type returned to most areas within six months to a year after they had been sprayed. Because of limited access to the forest we were often not able to determine the exact nature of the postspray vegetation. The fact that vegetation of some type generally returned promptly suggests, however, that there was no permanent inhibition of plant growth because of adverse conditions in the soil.

TABLE III.—ESTIMATED ACREAGE SPRAYED 1 OR MORE TIMES, 1965–71[1]

Vegetation type[2]	Total in SVN in 1953		Number of times sprayed, August 1965–March 1971—millions of acres				Total sprayed one or more times	
	Millions of acres	Percent	1	2	3	4 or more	Millions of acres	Percent
Inland forest	25.91	62.4	1.72	0.62	0.22	0.11	2.67	10.3
Cultivated land	7.80	18.8	.20	.04	.01	.00	.26	3.2
Mangrove forest	.72	1.7	.14	.07	.03	.02	.26	36.1
Other	7.07	17.1	.31	.07	.02	.00	.39	5.5
Total	41.50	100.0	2.37	.80	.28	.13	3.58	8.6

[1] Does not include coverage of missions before August 1965 (1,270,000 gallons) and missions after that date for which location information is incomplete (1,100,000 gallons) representing about 12.5 percent of the total gallonage accounted for. Compare Tables III C–1 and III C–2 and related text.

[2] Inland forests include those areas classed as dense forest, secondary forest, swidden zones, bamboo forests, open dipterocarp, Laterstroemia and Leguminosae forests. "Other" include pine forests, savanna and degraded forests, grasslands and steppes in higher elevations, dunes and brushland, grass and sedge swamps and areas of no vegetation (urban areas, roads, water courses, etc.). Classification and area figures follow Bernard Rollet (1962). See Tables II–E and III B–3 and the accompanying text.

Inland Forests: Damage and Redevelopment (Sec IV B[1], [2])

The inland forests received three-quarters of all herbicide sprays. As a result of extensive study of aerial photography and limited observations on the ground in sprayed forests, we conclude that damage to forests depended on the frequency with which a given area was sprayed, the time intervals of individual sprays in multiple-sprayed areas, the extent to which there was other disturbance (especially bombing, and also clearing and burning for agriculture or other purposes, as well as selective logging). It should also be noted that much of the inland forests of SVN, including the areas sprayed with herbicides, was already disturbed—as are most tropical forests, except those in the remotest locations—by lumbering, agriculture clearing, or fire prior to the time of spraying. Although some areas are technically classed as "forest," and have been subjected to herbicide sprays, they contained few large trees.

Because so many variables are involved, the extent to which there will be recovery from deleterious effects, and the time required, cannot be stated in precise terms. In some areas, particularly those sprayed only once and not subject to other disturbances, damage was generally limited to the tallest trees, which were more exposed to the spray than lower ones. It appears that redevelopment will resemble the pattern of forest growth following harvest of large trees. In areas sprayed more frequently, where damage was heavier in the lower stories of the forest, the redevelopment will take longer. If large-scale rehabilitation of war-damaged inland forest is undertaken, it is probable that all single sprayed and most multiple-sprayed forests can eventually be restored to productive forestry by adopting appropriate silvicultural practices. Systematic on-the-ground studies of sprayed areas are essential, with special attention to numbers and sizes of young individuals of the important tree species and of seed sources.

Concern has been expressd that herbicide-damaged forests will be replaced by bamboo. Information derived from limited field and aerial reconnaissance suggests that where herbicide spraying has led to the death of the forest tree species and suppression of their reproduction, bamboos, if present in the area—as they are in many but not all island forest areas—tend to increase with establishment of pure stands, which may persist for many years. However, it is difficult to distinguish this herbicide effect from effects of

other disturbances, particularly fire and agricultural clearing, and it should be realized that extensive bamboo forests existed in the SVN before the herbicide operations, probably as results of such disturbances. Evidence for rapid invasion of new forest areas by bamboos as a consequence of herbicide spraying was not observed.

Inland Forests: Loss of Merchantable Timber and Other Damage (Section IV B–3)

Using the HERBS records of herbicide operations, plus aerial photographs taken before, during, and after these operations, combined with information on the characteristics of the forests of SVN and measures of logs used currently in sawmills in SVN, the Committee estimated the total loss of merchantable timber in SVN forests by estimating the total number of trees of merchantable size killed by the herbicide operations in the inland forests of SVN, based on a detailed analysis of no less than some 100,000 acres (40,000 hectacres). The estimate is 1.25 million m^3 with a range of 0.5 to 2.0 million m^3. This may be related to an estimated total of about 8.5 million m^3 of merchantable timber in the sprayed area. Our estimate is, however, much lower than previous estimates by some other authors. The reasons for this discrepancy lie in differences in assumptions about the status of the forest inventory in SVN prior to application of herbicides, in estimates of effect of one and more than one spray, in predictions of length of time for restoration of forest structure following spray, and differences in estimates of total forest area exposed to herbicide sprays.

Loss to non-merchantable timber in the herbicide-sprayed area of the inland forests was estimated to be between 5,050,000 and 11,150,000 m^3 (see Table IV B–8) although the accuracy of this estimate is considerably less than that for merchantable timber.

In addition to the losses in merchantable and non-merchantable timber, there are other types of damage; to saplings and young trees ("growing stock") which in normal forest development will replace older trees as these die or are harvested, to growth because of herbicide damage (e.g., loss of part of the crown), which however did not result in death, and to seed sources. These damage classes could not be determined quantitatively, because of lack of both access on the ground and a forest inventory. However, the damage to growing stock has been substantial, particularly in heavily overused open forests and in young forests emerging from abandoned swidden. Loss of seed sources in these forests may also be a very critical type of damage, with serious consequences for the future of the forests, even though the merchantable volume of the source trees (per unit forest surface) was quite small. Thus, the total damage, particularly in multiple-sprayed inland forest areas, was undoubtedly extensive and serious. We also found some, although not very extensive, anomalies for which the explanation is not clear. These were usually areas that had been sprayed four times and from which the tree cover has almost entirely disappeared. The reasons for this could not be determined. Other areas sprayed as many or more times did not exhibit this much damage.

Damage to the inland forests was not confined to herbicides. Damage by bombing was also heavy, in both extent (area) and intensity (destruction of all trees, large and small, in the area of the crater, heavy damage in its perimeter, including metal fragments imbedded in surviving trees, which pose a hazard in sawmills, etc., and may reduce the value of timber from SVN in general).

Damage and regrowth in mangrove forests (section IV C)

A large proportion of the mangrove forests was sprayed with heribcides and was more heavily affected by the spraying than any other vegetation type in SVN. Of the approximately 720,000 acres of SVN that were covered by mangrove (representing about 1.7 percent of the total area of the nation), about 260,000 acres, or 36 percent, were sprayed. One spray usually killed all mangrove trees; large contiguous areas were devastated, and there has been little or no recolonization of mangrove trees in extensive sprayed areas, except along the margins of some of the canals that drain these swamps. One reason for this is that in some areas, especially the "Rung Sat Special Zone" southeast of Saigon, the destruction of this vegetation type was so complete as to eliminate most seed sources. Wood cutting, a traditional economic pursuit in the mangrove forests, is probably further reducing the supply of seeds and retarding recovery. An estimate based on a model suggests that, under present conditions of use and natural regrowth, it may take well over 100 years for the mangrove area to be reforested. With a massive reforestation program, the forest could probably be restored in approximately 20 years if sufficient money and seed resources were available.

The mangrove forest plays important roles as spawning site and food source for many economically important fish and shellfish species. Comparative studies of frequency of fish, shellfish, and planktonic organisms—the last-named important as food for the former two—in waters of an herbicide sprayed and largely denuded region and of an intact mangrove region showed that, while both were rich in planktonic organisms, the numbers and variety of these organisms were lower in the former than the latter. The same was true of large fish, while fish eggs and larvae were more frequent in the denuded region, although the variety of fish was the same. However, the data are not extensive, and the differences between the two sites are not large enough to draw firm conclusions. Overall fish catch in SVN has not changed much in the years of the herbicide operations, but catch per fishing craft (per unit of effort) has declined in contrast, for example, to the situation in Taiwan and Thailand. However, it was not possible to separate the operation of herbicide-related effects, such as the possible decrease in fish food, from other effects, such as increased fishing pressure, increased motor boat traffic, and decreased safety.

Effects of Herbicides on Soils (Section V)

The Committee conducted two kinds of studies to investigate the possibility that military applications of herbicides might have resulted in long lasting changes in the ability of the soil to support plant growth. First, samples of soil from sites in SVN and Thailand that had been sprayed during the military herbicide operations or in related tests were chemically analyzed for the presence of herbicides (2,4,5-T; 2,4-D; picloram). Second, planting experiments and chemical analyses for residual herbicides were conducted in SVN and the Philippines in tropical forest, agricultural, and mangrove soils that had been treated with herbicides in the same amounts as used in the herbicide operations in SVN. In general, both chemical and biological assays showed that toxic residues of herbicides applied at military rates disappeared within less than one year. If traces persisted (in certain mangrove areas), they were below or near the limit of biological activity even in highly sensitive plants and did not seem to affect the reestablishment of native vegetation.

Limited studies were made of soil fertility—that is, the contents of the soil in readily available essential plant nutrients—in herbicide sprayed and unsprayed inland and mangrove forest areas. Compared with other ecosystems, in tropical forests a very high proportion of those plant nutrients is contained in the vegetation, rather than being retained in the soil. Concern has therefore been expressed that the death of large amounts of tropical forest vegetation may lead to loss of essential nutrients from the ecosystem, decreasing the prospects for revegetation after extensive herbicide treatment. Our results indicate, however, that although there were certain differences between "sprayed" and "unsprayed" inland forest and mangrove soils, the widespread death of vegetation caused by the herbicides has not had lasting detrimental effect on those plant nutrients within the ecosystem, with the possible exception of potassium. Potassium may be lost especially if the levels of other elements in the soil or the shed plant matter should become too high.

We saw no evidence in aerial photographs, aerial observation, or our limited visits to affected forests that destruction of vegetation by herbicides had resulted in laterization (permanent hardening of the soil surface, which inhibits forest regrowth) over any large areas of inland forests, as has been suggested by some authors.

Effects of Herbicides on Humans (Section VII)

The following conceivable types of herbicide effects on animals and humans were considered by the Committee: toxicity in directly exposed individuals; birth defects of offspring born to exposed mothers; ecological effects on disease-carrying insects and rodents; economic and behavioral changes associated with herbicide-caused destruction of vegetation; and perception and evaluation of herbicide effects by the Vietnamese public.

Herbicides and birth defects (section VII A–1)

The Committee could find no conclusive evidence of association between exposure to herbicides and birth defects in humans. Available records of two major Saigon hospitals and evaluation of records in a third, as far as they go, showed no consistent pattern of association between rates of congenital malformations and annual amounts of herbicides sprayed. The Committee recognizes however that the material is not adequate for definite conclusions.

The Committee has not yet completed its comparison of herbicide-spray records with the dates and places of birth of children with birth defects who were treated at the Barsky Unit, Cho Ray Hospital, Saigon-Cholon. The Barsky data are probably the best ones that can be obtained in SVN for the study of the problem.

The TCDD problem in South Vietnam (section VII A–2)

Analyses of samples of Agent Orange that had been returned from SVN, or had been procured but not shipped to the country, indicate that the amounts of TCDD ranged from less than 0.05 to almost 50 parts per million, with average concentrations in two sets of samples of 1.91 and 2.99 ppm. Over 10 million gallons of Agent Orange were used in SVN, suggesting that perhaps 220 to 360 lb of the TCDD contaminant were released over SVN.

Until early 1973, there were no analytical techniques available with sensitivity and specificity sufficient to detect the extremely small quantities of TCDD likely to be present in the environment. A much more sensitive and specific analytical method for detecting TCDD has recently been developed, and it has been reported that TCDD is present in fish and shellfish collected in 1970 and 1973 in waters of SVN, which drain areas that had been subjected to heavy herbicide sprays during the war. While the significance of this finding is by no means clear, it has raised serious, legitimate concerns for the public health; these concerns will persist as long as the problem is not resolved.

Herbicieds and medical ecological changes (section VII A–3)

Insect and rodent carriers (vectors and reservoirs) of human diseases are sensitive to small changes in the environment that they may share with humans. The Committee

studied differences between vector populations and the prevalence of malaria in human populations living in cleared and uncleared mangrove forests. Malarial mosquitoes were absent and there was no malaria among children living in uncleared mangroves in Thailand. Malaria organisms were found in the blood of 7 percent of children in a herbicide-cleared mangrove area in SVN, where mosquitoes of species known to be capable of transmitting malaria were also found. A mechanically cleared mangrove area in Thailand had malarial mosquitoes, and also had a higher rat population than did uncleared mangrove areas in Thailand. The results of this study led the Committee to conclude that clearing of mangroves by mechanical or chemical means may lead to environmental changes that favor vectors of human diseases. In the cleared mangrove community in SVN, the presence of malaria was probably a consequence also of temporary or permanent migrants from previously malaria-infested areas, and of the development of irrigated agriculture in herbicide-cleared areas that previously had been used for woodcutting and fishing.

Human reactions to military use of herbicides (section VII B, C)

The Committee studied human reactions to the military applications of herbicides by interpretation of aerial photographs taken before and after spraying of a variety of land use and settlement types, by interviews, and by examination of relevant local documents where available. Studies of one or more of these kinds were conducted in mangrove forest, irrigated rice, coconut plantation, gardening, and upland crop areas, and among Vietnamese and Montagnard peoples (the latter being interviewed in refugee camps). We also made a study of Saigon newspapers and other publications representative of the urban population. The results of aerial photography, documentary, and interviews were highly consistent, thus reinforcing one another. On the other hand, the opinions obtained in interviews in each community were quite diverse, suggesting that our respondents were usually expressing their own perceptions of herbicides, rather than following propaganda lines of either the government of RVN or the NLF. Following are the main general results:

1. Some communities and agricultural areas of all land-use types that we studied were in the direct path of recorded herbicide missions, many of them repeatedly. However, since the areas were selected because they had been heavily sprayed, these results cannot be used for a quantitative estimate of people thus affected in the country as a whole.

2. Herbicide spraying resulted in the displacement of people from their homes and contributed to the urbanization of SVN. However, major dislocations of human populations that followed herbicide sprays were often associated with other types of aerial or ground military activity. In only one out of 18 areas studied did population and settlements increase over the pre-spray period.

3. Application of herbicides in areas of human habitation resulted in destruction of or damage to crops regardless of the intended military purpose and the herbicide agent used. In 16 out of 18 areas studied, crop damage that had been caused by missions designated as defoliation was greater than that by missions designated as crop destruction. In addition to crop damage because the fields were in the direct flight path of herbicide missions, there was evidence for widespread crop damage by drift, i.e., herbicide carried outside the intended target area by wind, even though herbicide missions were not to be flown when wind velocity exceeded a certain limit.

4. Herbicide exposure of field crops usually resulted in loss of production for no more than one growing season. There was no evidence that crops could not be replanted within one year and less after the last herbicide spray. Fruit trees, especially coconuts, jackfruit, and papaya, suffered more persistent damage, and in some cases were killed, leading to loss of production for several years. Damage reparations—which, however, were intended on a solatium basis—were generally inadequate to pay for the direct damage in a single year, and did not even attempt to pay for lost production beyond the year of the spray, nor for the costs of restoring production. The loss was probably greatest to those farmers who were closest to the margin of subsistence and to those heavily dependent on tree crops.

5. Some individuals in every community in which people were interviewed reported that domestic animals and humans became ill or died after exposure to herbicide sprays, or after eating herbicide-treated plants or drinking contaminated water. Toxic symptoms reported included eye, skin, respiratory, and digestive disturbances. Reports of serious illness and death, especially among children, were more common and consistent among the Montagnards than among the lowland people. No independent medical studies of exposed populations were however in either case available from the time of spraying against which these reports could be confirmed or refuted.

6. Effects of herbicides were preponderantly viewed as deleterious to the livelihoods of the people whose land was sprayed, with the exception of some residents of the mangroves, who thought that defoliation resulted in increased security from the NLF, and also made it easier to clear land for irrigated fields. Woodcutters in this area recognized, however, that their primary resource had been largely eliminated by herbicides.

Psychological Reactions to Herbicides (Section VII B–2)

The study of psychological reactions among South Vietnamese consisted of two types of investigations: (1) measurement of emotional strain and (2) assessment of attitudes about herbicides. Refugees from a rural community which had been heavily sprayed showed a higher level of emotional strain than any other group to which they could be compared. Among them, those who had experienced the larger number of hard knocks of war had more evidence of emotional symptoms than those who were less severely hit. The spraying of herbicides contributed in both a general and specific way to the experiences identified as hard knocks. In regard to attitudes about herbicides, most of the people in the countryside held to the pragmatic belief that herbicides were a bad thing among many bad things that occur in war. In contrast, our study of pro-government and opposition newspapers from Saigon showed that the military herbicide program came to be viewed negatively by people in the cities. Herbicides came to be an emotionally charged symbol standing for many apprehensions and distresses, especially those for which Americans are blamed.

RECOMMENDATIONS

In what follows, the Committee recommends that action be taken in several fields as a consequence of its studies. Our first recommendation, however, is that the Committee's report be translated into Vietnamese. This is because it is the people of Vietnam who must live with the consequences of herbicide use and who must undertake remedial action.

It is also clear that Vietnamese effort to cope with the consequences of herbicide use will require financial and technical support from the United States. This should include the necessary funds, training for Vietnamese workers, the lending of technical and professional personnel as needed, and the supplying of equipment.

TCDD (Dioxin)

In view of the very high toxicity of TCDD (dioxin) to animals, and the presence of this substance in Agent Orange, which was widely used in the herbicide operations in SVN (approximately 10 million gal.), and preliminary reports of TCDD in fish in Vietnam on the one hand, and the lack of any data permitting assessment of TCDD effects on humans on the other, we strongly recommend two actions which should be undertaken simultaneously:

(1) Repeated systematic samplings and analyses of materials from Vietnam to verify the presence to TCDD and determine the level and distribution in human foodstuffs, animals involved in the human food chain, and river estuarine and sea muds. Such samplings should be started immediately and should be repeated at intervals to follow changes that may occur with time.

(2) Long-term studies to obtain a firmer basis for assessing the potential harmful effects of TCDD on man.

Other human health problems

Reports of Highlanders (Montagnards), in comparison with lowland Vietnamese, on death and illness caused by herbicides are so consistent that despite the lack of medical and toxicological evidence for such effects they cannot be dismissed out of hand and should be followed up as promptly as possible by intensive studies which should include medical and behavioral sciences approaches. Such studies will become possible only after peace has been restored in that area.

We strongly urge prompt evaluation of the data the Committee collected at the Barsky Unit of Cho Ray Hospital (see Section VII A–1) and elsewhere to determine whether or not they indicate a relationship between exposure to herbicides and congenital malformations.

We also strongly urge a comprehensive medical study over time of the approximately 50 Vietnamese men who were heavily exposed as handlers of herbicides in the defoliation program, if they can be located, as compared with an appropriate "control" group.

Where defoliated areas are considered as resettlement sites (or have already been settled by new populations) epidemiological studies are recommended, directed at determining changes in populations of potential disease vectors and taking into consideration possible effects of different land-use types on the spread of disease.

INLAND FORESTS

The inland forest regions contain major resources for the people of SVN. These areas have been subjected to the greatest amount of herbicide spray and to other war damage.

We therefore recommend that a complete inventory of representative samples of the forest be made as soon as possible, with particular attention being paid to reproduction and the young age classes of trees and to changes in forest composition, followed by studies to determine the consequences of war-related damage.

A systematic forest inventory is necessary for developing a basic land-use policy. When such a policy is established it may be appropriate to design specific procedures, for example with regard to conservation of forest reserves, for systematic reforestation programs. Forest utilization problems related to war-caused damage should be studied. In heavily damaged inland forest areas, plans and rehabilitation efforts should be initiated as soon as possible.

Mangrove Forests

The mangrove forests of SVN, which are economically important as a source of fuel and of food for fish, have suffered a greater damage than any other type of vegetation in SVN.

Since good inventories have been made of

the mangrove forests, the first essential step appears to be the development of a land-use policy which, among other matters, would help determine how much of the mangrove area should be reforested and how much developed for agricultural and other uses. Both developments appear feasible although either one will undoubtedly require a considerable input of labor and capital. The Committee urges most serious consideration of the important role of mangroves as fish and shellfish breeding grounds which require the preservation or reestablishment of adequate forested areas.

Urgent attention should be given to proper utilization of mangrove forests, particularly in view of the increasing energy problems, and the possible need for more fuel in the future.

Records

Many records of the lower reporting levels (district, province) which would have been useful in answering in more detail the direct and indirect effects on agriculture or on movement or health of people were routinely destroyed after being summarized and forwarded to regional or national headquarters. We recommend the preservation of all remaining records relating to herbicide operations. These should be declassified where necessary and made available for further study. Records of this NAS Committee, including data bank, photographs, and other records, should likewise be preserved and kept available for later studies.

General recommendations

Herbicides are an example of a modern technology which when employed on a massive scale for military use cannot be completely controlled, nor limited use cannot be completely controlled, nor limited in time and space to their intended target. The Committee recommends that Congress, in appropriating funds for development and use of materials and equipment as weapons, also appropriate funds for *independent* study and monitoring in those cases where there is a serious possibility of any widespread or persistent ecological or physiological effects. The Committee's work is a convincing demonstration of how difficult it is to do this after the fact.

Herbicides were a grave concern to many Vietnamese and achieved symbolic and emotional significance which sometimes outweighed the actual facts. We recommend further studies in collaboration with the Vietnamese with a view to promoting greater understanding of the properties of these herbicides, of their peaceful uses, and their hazards.

Herbicides have been only one of the impacts of the recent war on the Vietnamese people. The various direct and indirect war impacts were however all closely interrelated, and it is the Committee's firm belief that rehabilitation and reconstruction efforts should not be fragmented according to different categories of damage but should proceed in an integrated fashion, and that such efforts be undertaken as rapidly as conditions permit.

We are aware of the complex and difficult nature of some of these recommendations, but we urge that the work here recommended be initiated promptly, since any delay will make its accomplishment more difficult.

STATEMENTS OF EXCEPTION

Translated from the French
UNIVERSITE DE SAIGON,
FACULTE DES SCIENCES,
DEPARTMENT DE BOTANIQUE,
Saigon, December 3, 1973.

Prof. ANTON LANG,
Director, MSU/AEC Plant Research Laboratory, Michigan State University, East Lansing, Mich.

DEAR PROFESSOR ANTON LANG, I would like to apologize for my being late at the last (November 1973) meeting in Washington. The long formalities necessary to leave the country are responsible.

However, I do not think the results would have been much different, even if I had been on time. It is a pity that the committee lost four to five months more to restudy the problem of the damage in forests; as for myself, I have regretted waiting this length of time to confirm what I wrote to you on 6/21/73, and that at your request I gave my approval not to distribute to the members of the committee. The results of the new (?) study appear to be identical to the ones proposed in June; because they are now better written, in more refined shades, more toned down, more skillful, does not mean that I have to accept them.

I do not speak of the figures concerning the extent of the defoliated areas. We estimate that the non-recorded represent defoliated areas about 15 percent of the total area.

What I would like to speak to you about here concerns the methodology used to calculate the amount of the damages, or more precisely, the material and the methods used.

MATERIAL USED

1. The report draft has specified that the commitee has chosen a certain number of sites necessary for a good sampling of defoliated forests. But for reasons of security and convenience we have had to adopt other itineraries (p. 30).

We have used a base-line material that we have accepted but not chosen.

2. In addition, the quality of the transparencies, or at least those which I was able to study in Seattle, leave much to be desired—whether because of insufficient sharpness, or because the exposure (time of exposure at the time of shooting or processing?) is not correct (in most instances overexposure), for example, the roll S29 going through the region of Tâyninh Thiênngôn. The excellent photographs as the roll N16, B8–4 do not represent the majority.

On overexposed transparencies it is already *very difficult* to count the dead trees because of the absence of contrast: the background becomes lighter than the trunk of the dead trees. It would be *impossible* to count the poles. In effect, these photographs represent the forest at 1:5,000; a tree trunk of 45 cm or 450 mm diameter is represented thereon by a line 0.09 mm wide, visible if the photograph is sufficiently contrasted. But if the tree is represented by a covered pole it would be represented by a point of 0.09 mm diameter; this point has to be very bright to be easily recognized.

In addition, if the region has been subjected to brush fires, the trunk of a tree may be more or less charred, more difficult to see on the photo; the poles would in this case become practically indiscernible even in stereocopy. The same holds true for the kines, the surviving epiphytes.

3. I have read in the report that the Committee has chosen Tâyninh as study site (XT and YT quadrangles).

I do not know if the study was made with roll N14. As I had occasion to remark in Seattle this roll is not a good sample for several reasons:

—it passes through a region where there are many *recent* rays (swidden agriculture). It is in no way representative of the forest.

—in the counting, quadrants were not discarded in which there are rivers. Apart from the fact that there are no trees on the rivers, there are along the banks often thickets of bamboo with very few or no trees.

—the roll passes through areas (068) where there are no blockhouses (abandoned); around the blockhouses there is a large bare area. Do we consider these areas as a primary prairie or a zone where there are no dead trees?

METHODOLOGY

1. *Coincidence of the co-ordinates of defoliation operations with those of the damaged forests.*

The problem of knowing whether a defoliation swath reported by the pilot and recorded, exactly matches with the one where the defoliants really come into contact with the forest. This problem does not exist when we deal with the overall estimation of the damages. But it exists when one wants to study the influence of the number of operations on the extent of the damages. Often these strips are close together, criss-crossed.

Allow me to believe that in the detail the coordinates given by the HERBS tape do not always correspond to reality. One can admit navigation errors by the pilot; a deviation of a few hundred meters for a large plane is—I think—normal. In addition, there is the drift of the droplets of the herbicide due to wind. The damages to the Hevea plantations, to the teak plantation at Dinhquán, to fruit tree plantations were often due to these causes. In addition, one can also see it on the photographs. For example:

Photo 037 (N16): I counted outside of the swath of defoliation indicated, quadrats (1.5 ha) where there are 7 to 16 dead trees.

Photo 090 (N16): In places where the HERBS tape shows one operation, I counted per quadrat of 1.5 ha 18, 8 to 9 dead trees, when *nearby*, where 3 operations are indicated, I counted only 8 dead trees.

Photo 0135: In the stretch where the forest is totally decimated, one operation is indicated.

Photo 0143: In the quadrats 134, 133, I counted respectively 11 and 10 dead trees; these quadrats are outside of the swath of defoliation recorded.

The same comments for photographs 0753, 1552. . . .

With all this, allow me not to believe the assertion on p. 34: "The cleared strips coincide geographically with areas where four herbicide missions were flown. . . ." Either the co-ordinates of the HERBS tape are not always the biological co-ordinates, or many times 2 sprays are sufficient to kill all the trees.

All the more reason, it is impossible for me to believe that we can write (p. 35): "the forest was essentially intact after the first three herbicide exposures."

2. I think that for the study of each quadrat, one should not base himself only on the vegetation map of Rollet, but also obligatorily on photographs taken before the defoliation, for example the aerial coverage of 1948.

This makes it possible to not classify a forest which is actually totally destroyed in the category "savanna". I remember that you yourself—like the majority of the members of the Committee—have never believed in the existence of the areas where the defoliation has destroyed all the trees. At the time of the July meeting, nobody believed me when I spoke of the strips where the forest is totally destroyed by the defoliation. I even showed photographs (unfortunately, in black and white). In the report draft presented in July, it was never mentioned.

In this way, we have eliminated the areas most seriously damaged. Yet these stretches are easily visible from satellites (see infrared photograph of ERTS I, for example).

When I have been at Seattle, and particularly at the Geographic Department in Washington, for each photograph, I had to look for each photo exactly what was there before the defoliation. It takes *longer, but it is more accurate.*

3. In Seattle, I brought up the problem of the poles. In my letter of June 21, 1973 I explained it again to you.

Many dead trees appear in 1973—even in 1972, if I remember properly—in the form of trunks without branches (crowns) which we have called by the term poles. Even in the

Mangrove, if you remember well, in the maritime region of Rùng-sát where we were in December 1972, were many poles, too. Along the Route Nationale from Saigon to Phantiêt, it is the same.

A great majority of the errors committed in the estimation of the damages derive from these poles:

a. In the first study, these poles were not counted. Dean Bethel himself recognized this fact when I was in Seattle.

Now, these poles are difficult to count, and even if one succeeds, it is with a great margin of error:

Photographed vertically from above, they are represented by a whitish dot of 0.09 mm diameter (for a tree of commercial value with a diameter of 0.45 m). One can identify them with certainty only with a special stereoscope for these large photographs. I did not find one in Seattle. In Seattle, there is a small stereoscope; one can examine these photographs with this small stereoscope provided that the photographs are cut to bring them closer. How many have been cut?

How to distinguish a dot of 0.09 mm that is counted, from a dot of 0.08 mm that is not counted; corresponding to trees without commercial value, and this with the rolls of photographs without contrast, without sufficient sharpness, or overexposed?

When the photographs are taken in the morning, with the sun at an angle casting long shadows, the poles are easier to detect if the ground is even, constituted of a savanna for example. This is the case in the strip where the forest is totally destroyed.

But where there still is a shrubby or arborescent layer, the shadows are difficult if not impossible to detect. The photographs 766, 767, 768, and 769 are particularly instructive: one can see projected on the rivers shadows of poles which are themselves invisible!

My observations in the Corypha forest (Nationale Highway from Saigon to Phanthiêt) and in the Mangrove lead me to believe that there are now as many if not more poles than dead trees retaining their branches. The study of the photographs in Washington and Seattle confirmed this for me.

Here are some figures taken at random from my notes (per quadrat of 1.5 ha):

	With branches	Poles
Photograph:		
730	10	1
760	0	46
706	1	1
	6	3
		7
		0
1537		16–18
1553	5	20–258

In many areas where the forest is totally destroyed, there are only poles and no trees with branches. For example, on roll B7.

b. These bare areas bring up other particularly important remarks.

The examination of the photos taken before the defoliation shows that the region was covered by a beautiful forest. On the areas now bare, or more precisely covered by a savanna, I counted for example (photographs 1552–3–4) 10 to 41 poles per quadrat of 1.5 ha.

This does not mean that the primitive forest had only from 10 to 41 trees per 1.5 ha. In other words, even counting the poles correctly—which I doubt—the estimation was made strongly—very strongly—with a lack of judgment.

This therefore makes it already possible to refute the assertion (bottom of page 14) "complete destruction by fire or decay—although such complete disappearance of merchantable size trees in the period in question is unlikely". That complete destruction of the trunks of dead trees happens only in bare areas is highly unlikely!

These bare areas alternate with ones where the forest persists but is strongly damaged. In counting the number of trees *alive* and *dead*, one can still get an idea of the trees which disappeared because the number obtained is too small for the normal number of trees of the forest, even secondary.

Could I be impassioned or do I have a prejudice in this question? I hope that you know me enough after more than one year of collaboration to not believe it. As of now, I have not written or published anything on the defoliation in Vietnam. As a Vietnamese, I am wrong. But as a scientist, I have liked to have more observations, more studies, to have a more exact idea, free from preconceived ideas on the problem. I thank the Committee for having permitted me to do this.

But conversely, could one say that the portion of this report draft concerning the damages in the forest is impartial? I doubt it strongly. And it seems to me from the beginning, the Committee took—for this portion—an incomprehensible attitude of taking a view opposite to the ideas of some persons.

You said in the introductory part that political conclusions must be avoided. But would it be an apolitical attitude which consists of doing exactly the opposite of what others, whom you judge to be extremists, did?

When reading this part of the Report one cannot help but think of two things. First, the tone used is more one of justifying oneself than that of a scientific work. Next, the effort to minimize the facts is apparent. It is never in my ideas, nor those of Vietnam, to ask for compensation for defoliated forests. The damages—as far as commercial value—belong to the past. But the report is too polarized by this aspect and thus neglects what concerns the biologists, naturalists, environmentalists—namely to understand the biological damages.

In the citations concerning the value of the forests of South Vietnam, only the portions of Rollet's work which suggest a forest of little value are cited. Maurand (1965) who, after all, spent all of his life in Vietnam as a forester and Director of Waters and Forests, has not been cited; nor Barry et al. (1960) who give an idea of the richness of the dense forests in 1960. Not taken into account were the similarities between the forests of South Vietnam and Cambodia, similarities such that Rollet used the same terms to describe them; yet in Cambodia, Rollet gives an average of 200 m^3/ha for the dense forests and 230 m^3/ha for the semi-dense forests; the forests of South Vietnam could be a little richer, being more humid.

This effort resulted in curious numbers that I really do not understand. As on page 30: volume in cubic meters of all inland forests of SVN: 753.533

If that is the total volume "of merchantable timber", I dare not discuss it further. If that is the estimated volume destroyed by the defoliation, I cannot believe it any more.

Let us take for example just the forests totally destroyed. The committee estimated their area at 53.598 ha.

Using Rollet's figure one obtains: 200 m^3 x 53,598 = 10,719,600 m^3 destroyed.

There are reasons to think that these forests were very rich and dense forests, to deserve to be treated so many times.

The forests defoliated 3 times represent twice as large a surface area. If half of the trees are destroyed, one obtains an analogous number.

So, just for these two types of damaged forests, there is more than $21 \cdot 10^6$ m^3!

As for the forests defoliated one time? In the report draft I have read, I do not have the figure informing on the number of dead trees per hectare for this category. But, judging by the figures concerning the volume of wood of commercial value destroyed (2 to 4% of the figures of Flamm and Westing, i.e., from 10^9 to $2 \cdot 10^6$ m^3) this does not differ much from the ones given in the previous report draft (1.74 m^3 x 301,385, i.e., $0.51 \cdot 10^9$ m^3). I conclude from this that the number of dead trees per hectare has not varied much.

The study of the influence of the number of sprays is difficult when the swaths are close, as in the majority of the cases. One cannot eliminate the drift of the droplets of herbicide.

But some photos (roll N16, very good photographs) permit us to have an idea. These photos are of a region of beautiful forests.

On photograph 090, there are very distinct strips "one spray". On it I counted per square of 1.56 ha:

Quadrat:	*Number of dead trees*
116	17
100	6
140	5–6
139	7–8
139	2

(This is a forest with bamboos, therefore containing less trees).

On photograph 0114:

Quadrat:	*Number of dead trees*
31	12
30	15

Do these dead trees have a diameter DBH greater than 0.45 m? I do not know, but since they *belong to the upper story of the forest*, I allow myself to believe it.

With such numbers of trees of the upper story dead, the number presented by the committee appears ridiculously low.

In conclusion, as a scientist who—I think—knows Vietnam and who is familiar with the aspects of the defoliation, it appears impossible for me to associate myself with the conclusions of the Committee.

I ask you therefore to kindly present this letter to the Report Review Panel, along with the report draft or, if it is too late, to withdraw my name from the Committee.* If ever this report is translated into Vietnamese, I ask you also to insert the translation of this letter in its entirety.

In more than one year of collaboration, I have admired your kindness and your comprehension, valued the very high competency of the members of the Committee, and enormously benefited from their knowledge. It was for me one of the greatest honors to work with you. I therefore regret even more not being able to associate my name because of this small part of the work.

Please, dear Professor Anton Lang, believe in my best memories.

PHAM-HOÀNG HÔ.

NATIONAL RESEARCH COUNCIL, NATIONAL ACADEMY OF SCIENCES, NATIONAL ACADEMY OF ENGINEERING,

Washington, D.C. February 4, 1974.

Professor PHAM-HOÀNG HÔ,
Department of Botany, Faculty of Science, Saigon, Vietnam

DEAR PROFESSOR HÔ: This is written in response to your letter of 3 December 1973. I have to apologize that this response has taken such a long time. I was very busy with various other aspects of finishing the Committee Report and had also to consult a couple of times with Dr. Bethel and Dr. Turnbull concerning certain points in your letter. Permit me also to reiterate in this letter some points which I already made in that of 21 December so that all comments which

*Since receipt of this letter, Professor Ho has withdrawn his resignation from the Committee, but not his exceptions concerning Section IV B.

I would like to make are assembled in one document.

To begin with a number of general points.

I cannot accept your statement that for this part of the study the Committee has taken from the start a partial attitude, namely the opposite view to that of some other persons whom we consider as extremists. In this as in all other parts of the study we have tried to be as unprejudiced as humanly possible, and to use available methods which could be utilized under the circumstances to arrive at objective conclusions. In the estimation of the loss of merchantable timber—chosen because this was the kind of loss where a reasonably reliable quantitative estimate could be made—we used methods which have been used before in non-tropical as well as tropical forests and which have proven to provide results reliable within ca. 10 percent. Because of the problems of this particular study we realize that the reliability is less and use in the latest draft of the report a range, 500,000 to 2,000,000 m^3 which implies a larger error. But we consider it quite impossible that the error is anything like 20 to 100 fold. As to the other authors, our intent was at first not to enter into any discussion of their data. However, the first time our figures were shown to the Report Review Panel we were blamed for disregarding this earlier evidence, and had no choice but to explain why we consider those data entirely wrong. We do not claim to be infallible and may have made mistakes, but this was not because of partiality. If you consider one section of the report as partial this means the whole report is partial. I fully expect that accusations of partiality will be made; I regret profoundly that you are joining in this.

I also regret that you feel the new study consists only in better writing, in softer terms. In fact, this new study involves recounting for merchantable dead trees on more than 33,000 quadrats. The object was to obtain more complete information—whether it changed the preliminary figures or not. Also, *much* time and effort was spent on 10,000 photos covering the period 1965–70, and on providing specific clarifications to satisfy questions by members of our Committee, primarily your own, and of the Report Review Panel.

Turning now to individual items in your letter:

"I do not speak of the figures concerning the extent of the defoliated areas. We estimate that the non-recorded defoliated areas represent about 15 percent of the total area."

We are not clear on this statement. It could mean (i) 15 percent of the area already considered as sprayed, i.e., the actual area is 115 percent of what the Committee used as sprayed area; or (ii) it could mean 15 percent of the whole country, i.e., the Committee's figure of 10 percent for the whole country should be 25 percent.

If (i) is the meaning that it agrees closely with the Committee's estimate that herbicide operations not accounted for in the HERBS records amount to 15 to 17 percent (15 percent of the quantities used, 17 percent of the cumulative area sprayed) of those recorded.

That this amount of sprays is missing is said repeatedly (Section IIIC; Section IVB–3, p. 86) and is discussed in relation to the forest damage study on p. IV–71. It is explained at the latter place that increase in "total country sprayed" and increase in "area sprayed within sample" would both happen as a consequence of over-all increase in area sprayed. Unless there is evidence that the unrecorded spraying was outside MR III or completely missed by the sample, it is fair to assert that the increases in numerator and denominator of the ratio page IV–61, equation (1) would tend to cancel, leaving the ratio unchanged. The limited information concerning pre-August 1965 spraying locates much of it in MR III.

If (ii) is what is meant, this suggests an *error of 150 percent*. There is nothing in the data available to us to support such an assertion. It seems unlikely that this is the meaning intended; if it were so, I would regret very much that we were not alerted to this conclusion before.

"MATERIAL USED"

No. 1. "The project report has specified that the Committee has chosen a certain number of sites necessary for a good sampling of defoliated forests. But for reasons of security and convenience, we have had to adopt quite different itineraries.—We have used a base-line material which we have accepted but not chosen."

It is true that the sample areas selected had to be reselected. The main points of importance are:

(i) The request from the Department of Defense was to arrange the sample points so that they could be flown as a small number of longer lines rather than a large number (over 30) of short flight lines. *The reselection was made by the Committee*, by making minor shifts in sample location so that sets of points occurred now on the same straight line. These shifts, ranging from 0 to 10 km, were made without regard to the intensity of spraying or degree of effect (the latter unknown to the Committee until the photo flights were made.) The sample areas originally selected and still included in the reselected sample were 23 out of a total of 31, or 74 percent.

(ii) The areas selected initially would have resulted in a total sample area of about 40 x 10 kilometers of flight path, or 400 km^2. The reselected areas and lines gave about 7 x 150 or 1050 km^2 or 2.5 times the photo coverage requested originally.

(iii) An effect of shifting sample areas could be to increase or decrease the degree of damage or the fraction of any given type of forest included in the sample. An argument against the samples could be made if it were shown that the degree of damage in relation to number of spray applications (based on the HERBS records) was high or low in the sample compared with the spray effect as a whole. No basis for such an assertion has been presented. In fact, the estimates of damage for 2 and more applications, for example, were based on samples that deliberately included some of the most heavily damaged areas.

Altogether, we did *not* accept samples we had not chosen. The modifications which we made in the original sampling plan were small and are counterbalanced by a larger size of the sample. The sample would be considered entirely satisfactory in forest inventory practice.

No. 2. "In addition, the quality of the transparencies, or at least those which I was able to study at Seattle, leaves much to be desired (etc.)"

True. For this reason a careful selection of films was made to give as extensive a sampling as possible and with satisfactory quality. Copies of film seriously lacking in quality (S29) were copied in black and white from the original so that good quality (S59) was obtained. The latter were used in the final sampling.

"On overexposed transparencies it is already *very difficult* to count dead trees because of the absence of contrast; the background becomes lighter than the trunk of the dead trees. It would be *impossible* to count poles. In effect, these photos represent the forest at 1:5,000; a tree trunk of 45 cm or 450 mm diameter is represented thereon by a line of 0.09 mm wide, visible if the photo has adequate contrast. But if the tree is represented by a covered pole, it is represented by a *point* of 0.09 mm in diameter; this point has to be very bright to be recognized."

(i) The Committee had certainly as much desire to have good data as do yourself.

(ii) It is true that in the small portion of film representing area in direct line with the center of the camera field, and vertically below, a pole would appear as a point. But most of the area is not exactly on center; most of the trees are seen with some degree of obliqueness.

(iii) Trees (and parts of trees) of a diameter much smaller than 45 cm (e.g., tree branches of a diameter of 10 cm) are clearly visible on film of good quality as selected for the final sample.

(iv) Possible errors in dead tree counts, including error in judgement of size are discussed on page IV–67 which should be studied carefully. An important fact is that counting trees too small to be 45 cm in diameter can increase the *count* (*number*) of merchantable trees considerably but, since those trees are small, this has only quite a *small effect* on the *volume of merchantable trees*. The reverse is true for undercounting merchantable trees.

Reference should also be made to the new non-merchantable inventory (page IV–73 et seq.) and the assessment of damage to non-merchantable volume. As indicated there, the number of trees of 30–45 cm diameter killed by herbicide would be 20 to 30/ha in some locations. You may question whether these trees are non-merchantable. That they were killed is not being argued. We believe that when you counted dead tree numbers in the range of 20–40 cm many of these were below merchantable size—the only number which we tried to determine at that time.

"Moreover if the region had been subjected to brush fires the trunk of a tree may be more or less charred, more difficult to see, and the poles would in this case become practically invisible, even with the aid of a stereoscope. The same holds true for surviving vines and epiphytes."

(i) No indication is given as to the extent of such burning. Did it occur often enough to cause a serious error? Generally where brush is extensive, the number of merchantable size trees is small (see Table IVB–4) since most are scattered over areas that had been cleared for agriculture.

(ii) As indicated in the discussion of factors that may have affected the estimates of damage (p. IV–63) there is no doubt that dead merchantable trees were included in the count that were not killed by herbicide—compensating to some degree for trees that were killed and then covered or blackened. Again, however, no indication of the *amount* of the latter has been provided.

No. 3. "I have read in the Report that the Committee has chosen Tayninh as a study site (XT and YT quadrangles).—I do not know if the study was made with roll N14. As I had occasion to remark at Seattle this roll is not a good sample for several reasons:

"It passes through areas where there are many recent rays (swidden agriculture). It is in no way representative of the forest."

Our samples were chosen to represent *all* the areas sprayed within the general category "inland forest". The one million hectares so designated include recent swidden *that was sprayed*—therefore it is sampled. In other samples the amount of such areas is less; the total samples reflect the various vegetation types found within "inland forest" in a manner which would again be considered satisfactory in forest inventory practice.

"In counting quadrats were not discarded in which there are rivers. Apart from that fact there are no trees along the banks there is often a thicket of bamboos where also few trees are present.

"The roll passes through areas (068) where there are blockhouses (abandoned); around the blockhouses there is a large bare zone.

Are these zones considered as primary prairies or as a zone where there are no dead trees?"

Our non-forest types 6, 7 and 8 are identified in the sample (see page IV–39) and in the results (Table IVB–4) to separate these from forested areas. Rivers are for example in our micro-type No. 7. As expected these areas have very few trees, dead or alive (see also Table IV–60). But they are part of inland forest and therefore cannot be simply disregarded.

"METHODOLOGY"

1. *Coincidence of the coordinates of defoliation operations with those of the affected forests.*

"Allow me to believe that in the detail the coordinates given by the HERBS tape do not always correspond to reality. One can admit navigation errors by the pilot; a deviation of some hundreds of meters for a large airplane is—I think—normal. In addition, there is the drift of droplets of herbicide due to wind. The damage to Hevea plantations, to the teak plantation at Dinhquán, to tree fruit plantations were often due to these causes."

Agreed; see page IV–71/72 of Report. But herbicide may have also been applied because of these reasons to areas bare of vegetation. Intentional and accidental spraying of crop lands is discussed in several sections of the Report (IIIB, VIIB [1], [2]). Where this occurred in the inland forests (mainly active swidden) that amount should be subtracted from "inland forest area" and added to "cultivated area". But the reverse accident could happen and has happened, i.e., spraying designed for crop destruction has impinged on inland forests (see also Section III B–6).

"With all this, allow me not to believe the assertion on p. 34: The cleared strips coincide geographically with areas where four herbicide missions were flown."

A study of that whole area established too strong a similarity in pattern of "four spray" applications and pattern of "conspicuous damage" to be dismissed. It is true that some of the severely damaged areas had been both bombed and sprayed.

"All the more reason, it is impossible for me to believe that we can write (p. 35) 'the forest was essentially intact after the first three herbicide applications'."

In the 1968–69 (1:50,000) photographs the area is undistinguishable from many sprayed areas as visible on black and white photography, namely, it appears as a grey-white swath—within this *the trees are visible.* In 1972–73 (1:5,000) color photographs the dramatic damage in certain strips is clearly visible. According to spray records, three applications occurred prior to the 1968–69 photographs and one after they were taken. In some parts bomb craters are visible within the dramatically damaged strips.

2. "I think that for the study of each quadrant, one should not base himself only on the vegetation map of Rollet but also obligatorily on photographs taken before the defoliation, for example the 1948 aerial photo coverage."

See report. We do not know of 1948 photography. 1958 1:50,000 photographs and some 10,000 prints for the period 1965–70 *were* used. The prespraying vegetation maps given in the report are derived from the former photographs which are excellent.

3. The problem of poles. Part of this is covered under item #2 of the "Methods Used", above. In addition, the following remarks should be made:

(i) CEHV counts were made by a combination of monoscopic and stereoscopic observations following a pattern of photo interpretation that is commonly used and that has proved to be accurate in a great many similar studies in the past. This was the subject of a special inquiry when three specialists reviewed our procedures at President Handler's request. We were advised that the team found our procedures to be reasonable and to yield accurate and reproducible results. The procedures consisted essentially of using monoscopic observations when it was found, by checks with stereoscopic observations, that the counts were consistent between the two. This was the case for the large scale counting and typing. For special studies and in doubtful cases stereoscopic observations were used throughout.

(ii) Comparison of different observers with the same criterion on the same material was a common quality control procedure used throughout the study. When counts of an observer were consistently higher or lower than of the others they were discarded.

(iii) Altogether, we are compelled to say that counting poles, "snags", "climber towers" is a question of photo interpreting skill and we believe that we have covered this problem in our data gathering, in the range of assesssment values presented, and in the narrative in the report.

In the last part of your letter, speaking of the total damage estimate, you say that if this volume is the total for 'merchantable timber' you do not wish to discuss further ("je n'ose plus discuter"); if it is the estimate for the total destruction by defoliation you do not believe in it even more.

Let me emphasize that in the version of the chapter to which your letter refers we were always and explicitly speaking of loss *of merchantable timber only.* This leads me to say that, in my opinion, the important sources of disagreement are, and have been all the time, two. *First,* while we were speaking of mercantable timber—this being the type of timber which we felt could be estimated with a reasonable degree of accuracy—yourself and some others had in mind the total standing timber. These are obviously two quite different categories which cannot be interchanged. This problem is discussed on p. IV–49 of the Report. When the difference between these categories is observed, the large volumes you cite for example for Cambodia become much smaller; Rollet considers 15 m^3/ha as a high current merchantable yield. *Second,* we have followed Rollet's classification of vegetation types in South Vietnam; it seems to me that when you speak of forests you think of undisturbed or little disturbed *dense forests.* We are aware of the publications of Maurand and of Barry et al., and certainly do not deny that such high quality forests exist in South Vietnam and that they have suffered from herbicide operations. But Rollet's is the only available classification for the *entire* country, and our objective was to assess the damage in the *entire* inland forests, not in selected areas of one type or another. The only alternative would be to re-define the term "forest", excluding swidden, bamboo thickets, and some other degraded secondary forests which Rollet in his map includes under "forests." But this would almost mean preparing a forest inventory of South Vietnam, a task beyond the possibilities of this Committee even under much more favorable conditions. As long as the Rollet classification is accepted, however, it is clear that all its "forest types", including bamboo etc., have to be considered. It is, as I am sure you will agree incompatible with the scientific approach to arbitrarily disregard some sample areas or to exclude results we consider well documented by quantitative data, even if these may disagree with qualitative impressions of the forests of South Vietnam. However, I believe that our procedure, accepting Rollet's classification as the only basis available, was the correct one as it covers *total* damage, in both the good and the poor parts of the forests, and this needs to be known if a comprehensive and efficient rehabilitation program is to be developed.

As a matter of fact, we believe, and say so in the Report, that while loss of merchantable timber in the more degraded forest areas is relatively slight, other damage is very serious and calls for rapid action if circumstances should permit it.

Reading the present, final version of the Report you will, I hope, note that we have introduced further modifications, designed to clarify the issues about which you have expressed concern. In particular, we have added estimates of losses of non-merchantable timber—again, please note for the *total* inland forest area, including all forest types from genuine dense forests to highly degraded secondary ones—even though we have ourselves considerably less confidence in these estimates than those of merchantable timber losses.

Let me conclude by saying that whatever your decision concerning this report, I will always remember with profound respect and gratitude your help and cooperation, given I am afraid often at detriment to your regular, demanding responsibilities, and I am sure the entire Committee shares this feeling. We know that without your generous assistance we would have accomplished very little.

With best personal regards,

Sincerely yours,

ANTON LANG, *Chairman.*

SCHOOL OF PLANT BIOLOGY, UNIVERSITY COLLEGE OF NORTH WALES, MEMORIAL BUILDINGS, BANGOR, CAERNARVONSHIRE

STATEMENT

Though I am in general agreement with the rest of the Report, I wish to express a personal reservation with regard to the section on 'Quantitative Assessment of Herbicide Damage to the Inland Forest'. Earlier estimates of herbicide damage may have been too high, but I am not convinced that the loss of 'merchantable timber' (itself only a small fraction of the total damage to the forest) was not considerably greater than is suggested here. I have been led to this conclusion by my general knowledge of forests in many parts of the tropics, my (admittedly very limited) field experience in SVN, and by such studies as I have been able to make of the air photographs. In my opinion there are two important reasons for the low figures: (1) that the methods used led to a serious underestimate of the number of dead trees in the 1972–73 photography, much of which was of indifferent quality, (2) there was an inadequate appreciation of the post-mortem changes to which trees are subject in humid tropical climates. Because of these changes counts of dead trees and estimates of crown and tree diameters in air photographs taken long after the death of the trees may be very unreliable.

PAUL W. RICHARDS.

Received in the Committee Office, February 4, 1974.

[Western Union Mailgram]

FEBRUARY 8, 1974.

PHILIP HANDLER,
National Academy of Sciences,
Washington, D.C.

Ordinarily in a joint scientific endeavor that involves several disciplines, each member expects to accept within limits contributions from disciplines not his own without necessarily understanding all the technical procedures and the precise nature of the evidence. When, however, the task is as complex and difficult as the work of our committee and when there is as much controversy as there has been among scientists in given subject matter areas regarding conclusions, then the matter of approving the report as a whole becomes extremely difficult. I have in mind particularly the section on the inland forests and think it not appro-

priate that I should appear as either approving or disapproving it.

ALEXANDER H. LEIGHTON, M.D.

Mr. McINTYRE. Mr. President, in summary, these various documents cover the current situation relating to the subject study.

The Department of Defense letter concludes with the statement that—

With the submission of this report and the follow-on activities listed above, the Department of Defense has discharged its responsibilities pursuant to the law which directed this effort.

I will review all of the material submitted and, pending confirmation of the conclusion reached by the Department of Defense, will otherwise consider that the Department has complied and that any necessary follow-on actions will be the subject of initiatives by other agencies including those of the Government and, if appropriate, the Congress.

THE EARNED IMMUNITY ACT OF 1974

Mr. TAFT. Mr. President, last December, Senator PELL and I introduced the Earned Immunity Act of 1974, S. 2832. This legislation would permit individuals who failed to register for the draft or refused induction into the Armed Forces during the Vietnam conflict to apply for immunity from prosecution. An Immunity Review Board would be established by the bill and the Board would review each application on a case-by-case approach. The Board would be empowered to grant immunity to such individuals upon completion of up to 2 years of alternative service, either in the Armed Forces or such programs as VISTA or the Peace Corps.

Senators PACKWOOD, BIDEN, METCALF, and HASKELL have joined in proposing this legislation and I would hope other Senators would closely examine the merits of S. 2832. In consideration of this subject I would commend to the attention of the Senate a letter of January 28, 1974 from Melvin Laird to Commander Ray R. Soden of the Veterans of Foreign Wars of the United States. Mr. Laird presents a very thoughtful analysis of this question and excellent reasoning for considering an alternative service approach to this issue. I ask unanimous consent that Mr. Laird's correspondence be printed in the RECORD.

There being no objection, the correspondence was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, January 28, 1974.

Commander RAY R. SODEN,
Veterans of Foreign Wars of the United States, Washington Memorial Building, Washington, D.C.

DEAR COMMANDER: I received a copy of your letter to the President on amnesty and would like to comment.

As a member of the Veterans of Foreign Wars, I share with you, Commander, a great pride in our nation's strength and freedom. As part of our heritage of freedom, we have always cherished the redemptive quality of our system of justice.

As you know, during my tenure as Secretary of Defense, I felt strongly that it was completely inappropriate, unwise and unjust to consider granting any form of amnesty. I felt that while brave Americans were fighting and dying in battle any consideration of granting amnesty was unwarranted and would have had an adverse effect on the morale of our Armed Forces. My feelings at that time were identical whether the amnesty being discussed by some was "conditional" or "general." I did make known, however, that looking beyond Vietnam we were studying various reports and studies on the complex question of amnesty.

On my departure from the Department of Defense, circumstances had changed markedly. No longer were American troops fighting and dying in combat anywhere in the world. As a result of changed conditions, my views with respect to considering the question of amnesty have also changed.

Throughout my career of public service, I have learned to avoid absolute, dogmatic positions. Neither the political system nor the judicial system of the United States works on "blanket" and arbitrary approaches. Both recognize the vital roles of (1) circumstances and (2) motivation in determining political or judicial solutions to our problems. As I have said, we pride ourselves on administering justice with mercy and understanding.

With respect to the question of a "blanket" or "general" amnesty, let me emphasize that I am now and always have been opposed to a sweeping general grant of amnesty. However, there are individual cases where the circumstances require that justice provide for what some have termed "conditional amnesty." I do not like this term and only use it for lack of a better description of an equitable approach to this difficult problem. It is my view that circumstances and motivation on a case-by-case basis, under our concept of justice, must be taken into account today when dealing with violators of our selective service laws. It is noteworthy that only a small percentage of these men have thus far been prosecuted by the Department of Justice, and in these cases widely differing penalties have been assigned to individuals varying by jurisdiction.

I hope these comments will allay some of your understandable concerns. As you know, I have nothing but a profound sense of respect and gratitude to the men and women who served in Vietnam, 56,244 of whom gave their lives in the service of our country. It is a lasting source of pride to me that I had the opportunity and privilege to associate with such fine Americans and their families. I have never committed any act, nor would I, which would be a "breach of faith" with these men and women.

Finally, I am grateful to the Veterans of Foreign Wars and to the Ladies Auxiliary for their steadfast support of our defense effort, and especially for your steadfast support during my service as Secretary of Defense. I trust, and am sure, that you will continue to extend that support to the President and to his defense policy in the cause of strength and peace.

Sincerely,

MELVIN R. LAIRD,
Counselor to the President for Domestic Affairs.

TWO PENDING NOMINATIONS

Mr. HUGHES. Mr. President, as part of my continuing effort to inform my colleagues about matters which have been investigated by the Armed Services Committee, I want to draw attention to an issue which will shortly come before that committee and possibly before the entire Senate.

Among the many military promotion lists recently submitted to this body is an Air Force list of some 92 names for the ranks of general officers. Two names on that list—Brig. Gen. Charles A. Gabriel and Maj. Gen. Alton D. Slay—have come to our attention before, during the investigation of the unauthorized bombing of North Vietnam by forces under the command of Gen. John D. Lavalle.

Both of these gentlemen testified before the committee on their roles in these events. Both men admitted knowledge of the unauthorized bombing and of the falsified reports used to conceal them, and both admitted regret or second thoughts about this practice.

I have reviewed their testimony and have circulated a letter to each member of the Armed Services Committee on this matter. My purpose was to explain why I cannot in good conscience support these particular promotions for these men and the vote of confidence in their judgment and performance of duties which such Senate approval would convey.

In order that the entire Senate may be aware of the issues in this forthcoming debate, I ask unanimous consent that a copy of my letter to the members of the committee be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON ARMED SERVICES,
Washington, D.C., February 19, 1974.

DEAR SENATOR: The Armed Services Committee will soon act on Air Force promotion list number 91. I want, through this letter, to explain why I believe that the Committee should decline to consent to the proposed nominations of Brigadier General Charles A. Gabriel for the temporary rank of Major General and Major General Alton D. Slay for the permanent rank of Major General.

In early 1972, General Slay was General John D. Lavelle's deputy for operations and General (then Colonel) Gabriel commanded the 432d Tactical Reconnaissance Wing at Udorn Royal Thai Air Force Base. In those positions, these two men knowingly and unquestioningly received and carried out orders from General Lavelle to conduct strikes in North Vietnam in violation of the written rules of engagement and to conceal these violations by falsified reports.

The Committee conducted a lengthy investigation of this unauthorized bombing in 1972 and questioned, among others, Generals Slay and Gabriel. Let me cite a few quotations from those hearings which deal with the involvement of these officers in these events.

General Slay knew that preplanned strikes were contrary to the written rules of engagement, but he rationalized the procedure as follows: "I just assumed that he (General Lavelle) either had the authority to do it or something that I had not seen and was not in the written word or he was deliberately choosing to do it extraneous to authority." (p. 301)

While General Slay denied conveying the initial order to falsify reports, he did subsequently discuss the matter with then Colonel Gabriel. "I did tell Colonel Gabriel at the time that General Lavelle refuses to accept a report that . . . does not have 'enemy reaction,' I did tell him that." (p. 307)

Senator HUGHES. Did you discuss the fact that it was outside the rules of engagement?

General SLAY. I don't believe so, sir, because we both knew it.

Senator HUGHES. Did you discuss falsifying reports?

General SLAY. No, sir.

Senator HUGHES. You just accepted it and went ahead——

General SLAY. Yes, sir. (p. 307.)

It is interesting to note that, when General Abrams ordered a strike in early January 1972 which was thought to be possibly contrary to the rules of engagement and which the Joint Chiefs of Staff subsequently criticized as such a violation, General Slay felt that it was necessary to report the strike accurately. "General Marshall and I . . . believed the only way this could be reported was right according to the book . . ." (p. 292)

Thus, General Slay should have been consistent in opposing false reports and he should have known that "liberal interpretations of the rules" would be opposed by the Joint Chiefs in Washington.

In his testimony, General Slay admitted that, in retrospect, his duty was to question his orders or at least report them to the Inspector General, and subsequntly to request written proof for deviations from written orders.

General Gabriel also said that, "know-what I know now," he would have raised some questions about those orders. (p. 220) But—"It rationalized it at the time that we were giving . . . 7th Air Force . . . all the information we had on the strikes . . ." (p. 202)

When asked by Chairman Stennis, "Why were you filing a false report? What was the purpose of the false report? Who was it designed to mislead or fool or protect?" General Gabriel responded: "Sir, I don't know, and I did not know at the time." (p. 202)

General Gabriel also testified that "I probably did" fly on some of the missions which required him to make a false report, though this was never pinned down to a particular flight and false report. (p. 201)

Other witnesses testified that perhaps 300 people knew of these unauthorized strikes and that it sometimes took four hours for debriefers to falsify convincingly their reports.

Perhaps the seriousness of these actions goes without question. Admiral Moorer said that the raids were a "violation of the letter and intent of the rule." (p. 459) He also said: "With respect to falsifying the records, I do not think that is subject to interpretation." (p. 489)

General Ryan told the Committee that he relieved General Lavelle of command primarily because of the false reporting. He also said that General Slay "exercised poor judgment" (p. 259) and that General Lavelle's subordinates "should have apprised me of the situation when I was out there. I think they should have known. . . ." (p. 271)

General Abrams was characteristically pithy in his comments. "If I or any other commander of similar rank picks and chooses among the rules, his subordinates are then going to pick and choose among the rules that he gives them. There is no way to stop it and as long as this is the way the mission must be performed, you must adhere to it or it will unravel in a way that you will never be able to control." (p. 108) General Abrams spoke directly to General Lavelle when the allegations of false reporting were made and said: "We just cannot have a military organization where you are requiring people to falsify reports." (p. 131)

I have gone into such detail because I want you to realize how full the record on these men already is. We do not need any further hearings. We must, however, make a judgment as to whether these men are fit for additional promotions and added responsibilities.

When the Committee considered the adequacy of the Lavelle investigation last March, Department of Defense General Counsel Buzhardt said that he had concluded that General Lavelle "was clearly and solely responsible for instituting false reporting of Air Force missions, and that those who obeyed his command should not be penalized." Moreover, he doubted that it would be possible to sustain a criminal charge of falsifying records, which is a violation of article 107 of the Uniform Code of Military Justice. The key problem was apparently proving an "intent to deceive."

As I told the Committee at that time, to decide *not to punish* a man for his actions is one thing, but it is quite another thing to reward him with higher rank and our confidence. I could not rest easy if I thought that one of these men who knowingly participated in this false reporting might one day become Chairman of the Joint Chiefs of Staff.

The integrity of our command and control structure, both within the military and under civilian authority, depends upon men of the higher character, whose obedience to our laws and the Constitution is unquestioned.

Hindsight is no substitute for foresight, and honest admission of error cannot replace good judgment at the time. The otherwise distinguished military records of these men cannot quell my own doubts as to how they might act in future circumstances.

It is my understanding that the denial of promotion would have these consequences: General Slay would have to retire next year, when he reaches thirty years of service and five years in his permanent grade, and he would receive retirement pay at the rate for major generals; General Gabriel could still serve an additional seven years, until he reaches thirty years of service, at which time he would retire at the pay rates for brigadier generals.

For the reasons I have outlined, I shall vote against confirmation of Generals Slay and Gabriel. I hope that, after weighing the evidence, you will join me in this action.

Sincerely,

HAROLD E. HUGHES.

THE MONETARY STRUGGLE

Mr. McCLURE. Mr. President, today we are watching a divisive and unnecessary monetary struggle within the United States. The Federal Reserve and the Comptroller of the Currency are at odds over the Fed's insistence that our banking system is increasingly and dangerously undercapitalized. Brendon Leavitt of the Fed reportedly let this be known to the Nation's big banks via a series of phone calls telling them to increase equity capital at the risk of not having their acquisitions approved. After 10 years of the substitution of debt for equity capital the banks were stunned.

In reply they assert that "the market will vote substandard banks out of existence," and that the Federal Deposit Insurance Corporation will take up the slack in terms of providing safeguards for the deposits of the general public.

What is being exhibited here is a classic situation of having the general public so controlled by a Federal entity that when its controls do not work the only answer is more of the same, but different controls. It is useless to insist that the Federal Reserve is private since in actual fact it regulates the monetary supply of the entire Nation by determining the amount of money which must be on deposit for each demand deposit made by a commercial bank, by buying and selling Government bonds on the open market, and by borrowing at discount rates. These arguments would be rendered academic by any nation which decided to use a value-backed currency.

The value-back currencies have traditionally been scoffed at by the sophisticates who "know" that economies built on credit and commercial paper pyramids need only good management to survive.

Oddly enough these precise arguments are the ones which have floundered so visibly in recent months as applied to the international money markets, markets in which as the Russians have so recently demonstrated, there is no way to survive except by the practice of capitalism.

Look, for instance at the European Communities reaction to the cold fact that their inability to pay for oil will result in up to $20 billion worth of balance-of-payments deficits and heavy borrowing on the international capital market. The average member country has about 25 percent of its monetary reserves in gold. There is no way in which these countries will agree to liquidate their gold supplies at the current international agreement price of $42.

Instead, the Commission of the European Communities has devised a system under which member banks would transfer 10 percent of their gold to the European Monetary Cooperation Fund. This gold would be credited in terms of "units of account" or UA's. While the technical value of the deposits placed in the ECMF would not change the gold could be used in the real world at current market prices.

Incidentally not even the UA would be totally meaningless, as the UA would be based on a real if inadequate appreciation of the value of gold.

The international monetary community is demonstrating right now that it knows the importance of a valuable numeraire. The International Monetary Fund has confessed somewhat abashedly, that is, indeed, a problem to devise a way to make the useless SDR attractive to "newly developed nations"—the current euphemism for the Arabs. But the IMF is at least aware of the fact that paper is useless to those who have oil and gold, and worse for those who have neither. The United States has a long way to go to catch up with today's international monetary wisdom.

HANDICAPPED AMERICANS NEED PLACEMENT IN PROPER ENVIRONMENT—WASHINGTON POST AIDS IN INFORMING PUBLIC ON PLIGHT OF MENTALLY ILL

Mr. RANDOLPH. Mr. President, as chairman of the Senate Subcommittee on the Handicapped, it is gratifying to note that the Washington Post continues its efforts to educate the public and create an awareness of the problems of our handicapped Americans.

An article "The Mentally Ill: From Back Wards to Back Alleys" in the Post on Sunday, February 17 points out the plight of the mentally ill. There is a need to deinstitutionalize these handicapped persons. This must be accompanied by careful and proper placement in the community to insure appropriate services and an environment adjusted to serve their needs. To be successful Mr. President, programs of care outside of institutions must have constant followup with strong human contact. The Post article emphasizes this need. I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MENTALLY ILL: FROM BACK WARDS TO BACK ALLEYS

(By Sharland Trotter and Bob Kuttner)

Our society has a tendency to suffer from delusions, to believe we have solved a problem by expressing outrage or organizing a campaign or passing a new law. This is very much the case with the way we have now "reformed" our treatment of the mentally ill.

The outrage was rightly expressed against the snake pits we used to call mental institutions. The campaign was organized to provide more humane treatment outside asylum walls. And the law was passed to create Community Mental Health Centers where the disturbed would be properly cared for. The problem is that, despite good intentions, we have actually gone from the 19th Century snake pits back toward the Middle Ages, when the mentally ill roamed the streets, sick, helpless and isolated.

The mental institutions have certainly been emptying. Since the mid-1950s, the population of state asylums has dropped from a peak of 550,000 to fewer than 300,000 today. But that does not mean mental patients are now better off or that they are treated with more understanding.

In Long Beach, N.Y., a faded seaside resort, for example, between 300 and 1,000 ex-inmates have been absorbed into decaying rooming houses and hotels. There have been widespread complaints there of former patients wandering aimlessly, urinating, exposing themselves, frightening children and occasionally exhibiting violent behavior. No government agency can state the exact number of released mental patients in Long Beach. None is responsible for them.

GOING TO SKID ROW

In larger cities, thousands of discharged mental patients have gravitated to the familiar skid rows, where instead of fending off the outraged middle class they must defend themselves against drug addicts, alcoholics and prostitutes. The Uptown section of Chicago and the Times Square and Bowery areas of Manhattan, which have recently experienced community protests over welfare hotels, now find the same hotels increasingly populated with former mental patients.

In the District of Columbia, the resident population of St. Elizabeths has dropped from 5,500 in 1967 to fewer than 3,000 today. But despite four Community Mental Health Centers and control of St. Elizabeths by the National Institute of Mental Health, a majority of the ex-inmates end up in foster care homes, where they receive little if any treatment. St. Elizabeths has approved 214 such homes, but ex-patients reside in a least 400 more, according to Arthur Scarpelli, head of St. Elizabeths' placement division.

The largest and most notorious of these homes is Taylor House in Southeast Washington, which has about 100 patients, making it virtually a minihospital. Yet, according to a report by the local Civil Liberties Union, it is a "hospital" with a lack of therapeutic or rehabilitative programs, inadequate food, and a system of employing patients at menial household chores at substantially below minimum wage. One resident was paid $5 a week for 42 hours of kitchen work. Another received $2.50 for 15 hours of heavy janitorial labor.

Responsibility for policing standards in D.C. foster care homes is fragmented among several local and federal agencies with a history of mutual mistrust. "The outstanding characteristic of the District," says Dr. Robert Butler, a D.C. psychiatrist specializing in gerontology, "is the sheer inability of federal and local officials to cooperate with each other for the benefit of patients."

In San Jose, Calif., the city has inherited nearly 2,000 discharged patients of nearby Agnews State Hospital, which recently finished emptying its psychiatric wards. San Jose entrepreneurs bought up several abandoned sorority and fraternity houses adjacent to San Jose State College and created a virtual psychiatric ghetto known in the neighborhood as "Little Agnews." Testifying before an investigating committee of the California State Senate about several incidents which terrified the neighborhood, including the disruption of an elementary school class by a former inmate, San Jose School Superintendent Charles Knight commented: "This is not a therapeutic community that would allow any mental patient or ex-patient to rehabilitate himself." Though the California rooming houses are known professionally as "board and care homes," few of the released patients there receive any medical care.

All this and more is the inadverent consequence of two broad waves of psychiatric reform, that began nearly two decades ago. Alongside the movement for community mental health care, which argued that even chronically disturbed patients could be treated more effectively outside asylum walls, there began a legal movement to extend civil liberties to the mentally disturbed. By the late 1960s, a string of lawsuits had overturned loosely drawn civil commitment statutes and established that persons could not be confined for treatment without in fact being treated.

The pressure from the courts to upgrade treatment, however, came at a time of spiraling hospital costs, and suddenly state budget officials became enthusiastic converts to the new dogma of civil liberty and community psychiatry. Loosely translated, this meant emptying the wards. By the early 1970s, state hospital budgets had been cut to the bone, and a generation of mental patients found themselves on the other side of locked doors.

Meanwhile, the movement to depopulate state hospitals was encouraged by the federal government, through the Community Mental Health Centers Act of 1963. Again, the idea was to replace the horrors of state hospitals with community clinics. In practice, however, most of the federal money went for bricks and mortar, and a "Community Mental Health Center" turned out to mean just about anything a locality might design to qualify for the federal funds. Many of the centers were privately operated, and few cared to serve the chronically disturbed indigent patients typically warehoused in state asylums. The Metropolitan Community Mental Health Center in Minneapolis, for example, built at a cost of $1.68 million, is basically a private psychiatric hospital complete with a glassed-in courtyard and swimming pool. Psychiatrist Lawrence Kubie terms the use of public money for such facilities as "benevolent profiteering on the current (community mental health) fad."

The federal emphasis on true halfway houses and sheltered workshops for the chronically disturbed has been minimal. State and local officials, faced with several hundred thousand discharged mental patients and shrinking budgets, tend to view the federal program with understandable skepticism. With federal funds reduced by the Nixon administration, these clinics are seeking support from the states and localities—but with little success. "Our priorities are different from the Feds," says Dr. Leroy Levitt, director of the Illinois Department of Mental Health. "We're concerned with people in serious need of help, not middle-class, mildly neurotic housewives."

CALIFORNIA ENLIGHTENMENT

Ironically, the states that were first to implement the "reforms" of a decade ago now face the most severely tangled administrative and budgetary morass. California's mental health reforms were once considered a model of enlightenment. Two state laws, the Short-Doyle Act of 1957 and the Lanterman-Petris-Short Act of 1968, sharply curtailed involuntary commitment to state hospitals and provided 90–10 matching grants for counties to care for their own mentally ill. The 1968 law also granted certain rights to inmates, including the right to personal property, to voluntary treatment, to vote and to receive uncensored mail and phone calls.

As a result of these seemingly farsighted laws, California's state hospital population dropped from more than 50,000 in the 1950's to 35,000 in 1963 and to fewer than 7,000 in 1973. But this did not mean that anyone had been cured. Once patients were discharged, the state ceased to care what became of them. "We don't keep track and we don't have any records," admits the Mental Hygiene Department's chief of community services, Jim Fossun.

Despite the matching grants, the counties have not filled the vacuum. The reality is a patchwork of 58 diverse mental health programs, few of which provide any "outreach" programs for discharged patients. California law gives former patients the civil right to refuse treatment, which many choose to exercise. Though the Lanterman-Petris-Short legislation encourages ex-inmates to return to their "home communities" for treatment, the concept is often useless. Thousands of middle-aged patients have been in asylums since adolescence and have no homes to return to. One hospital official of a retarded patient institutionalized since 1940 says: "What are we supposed to do—call his 80-year-old mother and tell her to come pick him up?"

In most counties, the practice is to interrogate a patient to determine his county of origin. This leads to a huge bureaucratic competition for funds and dissuades patients from seeking treatment. The decentralized county system of outpatient care turns out to be nearly three times as costly on a per-patient basis than institutionalization in state asylums. Thus a social worker at the Marin County Community Mental Health Center reports that when one patient was found to be a legal resident of Illinois, he was hustled onto a plane for Chicago.

In California, the squeeze is exacerbated by the tight fiscal policies of the Reagan administration. Last year, as complaints from beleaguered communities were already increasing, Gov. Reagan announced plans to phase out the remaining state psychiatric wards by 1977, except two for the hardcore criminally insane. A public outcry and an investigation by the Democratically controlled state legislature has caused Reagan to retreat somewhat from this schedule, but

even states without parsimonious governors are finding that community psychiatric care has failed to adequately supplant the old system of confinement in state asylums.

PASSING THE BUCK

In most localities the problems are similar: a shortage of funds for follow-up care; reluctance by state authorities to take responsibility for discharged patients; bureaucratic squabbles among federal, state, county, and local agencies; and a patchwork system of rooming houses, supported by ex-patients' welfare checks, providing little if any treatment and arousing community hostility. In almost every case, the prime motive behind the mass release of inmates seems to have been passing the financial burden, along to some other jurisdiction, not improving the quality of treatment.

In March, 1972, the New York State Department of Mental Hygiene abolished "convalescent leave" as a release status for recuperating mental patients. Consequently, all patients released from state hospitals were categorically discharged and pronounced cured, freeing the state hospital from any responsibility for their follow-up treatment or upkeep and leaving the patients solely dependent on welfare checks.

It is little wonder that many communities are up in arms about sudden influxes of discharged mental patients for whom nobody takes responsibility.

In New York's Long Beach, hotel proprietors are eager to keep their beds occupied and openly solicit the state departments of mental hygiene and social services for ex-inmates. Some hotel keepers are said to prefer mental patients, who are typically more terrified than terrifying, who are usually kept docile on tranquilizers, and who therefore make fewer demands. As one city official puts it. "The mental patients don't *kvetch* (complain.)"

But the largely elderly population of Long Beach is not so eager to have mental patients for neighbors. Last December, in response to a growing outcry, the Long Beach City Council passed the nation's first local ordinance banning anyone requiring "continuous" psychiatric treatment or medication from registering in the city's hotels.

Almost immediately, the New York Civil Liberties Union and the Washington-based Mental Health Law Project sued on behalf of several patients, asking that the ordinance be set aside as unconstitutionally vague and discriminatory. The ordinance and others like it, NYCLU counsel Bruce Ennis warned, "would treat former mental patients as permanent lepers and would cripple the progressive agreement towards community-based outpatient care."

There is little doubt that the Long Beach ordinance, if upheld and initiated, would consign ex-psychiatric patients to perpetual limbo. But when the psychiatric reformers of the 1950s and 1960s urged "community-based" psychiatric treatment as an alternative to the grotesque back wards of state hospitals, they could hardly have had the rooming houses of Long Beach in mind.

Citizens of Evanston, Ill., are also unhappy. They are fighting a relatively well-equipped, 450-room hotel recently converted into a "sheltered home" for the mentally ill.

At the extreme limit of community fears are violent crimes, in the Washington area, a discharged mental patient is now awaiting trial for the murder of 14-year-old Natalia Semler. In California, Edmund Kemper was released in 1968 from a state hospital, where he had been confined for murdering his grandparents. After being discharged and pronounced sane, Kemper killed eight more people, including his mother. Psychologists insist that the rate of violent crimes committed by former asylum inmates is no higher than that for the general population, but this is small comfort to the victims and their families.

OLD, RAGGED AND FAILURES

While the frustration of the communities that serve as dumping grounds for the ex-inmates is certainly understandable, the greater injustice is done to the patients themselves. The typical state mental hospital is populated by patients who are poor, homeless, aging and often black as well as mentally ill. In short, they are society's most unwanted—which is why state hospitals were so often the human warehouses the reformers rightly attacked. But these patients are still unwanted. Neither society nor the mental health professions have chosen to make treatment of this group any sort of priority.

Psychologist William Schofield's characterization of the typical beneficiary of psychotherapy as "YAVIS" has become a sheepish in-poke. YAVIS stands for Young, Attractive, Verbal, Intelligent and Successful, which accurately describes a majority of private psychiatric patients. By contract, people released from state hospitals tend to be old, ragged, taciturn, opaque and failures. Psychiatrists seemingly are less interested in treating chronic patients who disprove their theories by not getting better, nor have most state hospitals been distinguished by the quality of professionals they attract.

Few would argue that the chronically disturbed should simply be incarcerated. But the negative freedom not to be confined is of little value when the practical alternative is a rooming house of the helpless that in its own way rivals the old back wards. San Jose's "board and care" homes typically do not even supervise, let alone provide psychiatric counselling or vocational rehabilitation for, their residents. In cases where the ex-patients are on tranquilizers, most medicate themselves, and cases have been reported where patients have saved up sufficient dosages to commit suicide.

The movement to empty psychiatric wards has also left those who remain in state hospitals in the most neglected condition of all. These are the severely disturbed, retarded or dangerous patients whose release could not be justified by the most liberal discharge policy. But as hospital populations have diminished, budgets, have been slashed, leaving proportionately less money to treat the inmates who require the most intensive care.

SUBVERTING THE STRUCTURE

Reformers now are beginning to turn their attention to the right to decent treatment, as well as the right to be left alone. In a far-reaching suit filed Feb. 14 against District and St. Elizabeths authorities, four health associations are contending that more than half the patients at St. Elizabeths are not receiving adequate care and that they have a right to better treatment in alternative facilities, not simply to be released to foster homes or rooming houses.

Obviously, better alternative facilities are needed, but the existing haphazard system of rooming houses and foster homes has given the very idea a bad name, In effect, patients have been released from back wards to back alleys and to the oblivion of shabby flophouses. If saving money remains the objective, the exercise is doomed, because decent transitional facilities are not cheap.

A few models of how patients should be treated outside asylum walls do exist, but most are struggling for survival in the face of budget cuts. Bronx State Hospital in New York, for example, has a family services unit and a range of transitional facilities including sheltered workshops, foster homes and halfway houses. An aggressive staff counsels released patients, foster home sponsors and their families. "Our staff works on everything besides the patient's head," says Christopher Beels, the psychiatrist who heads the unit. Beels terms the state and city administrative apparatus "entirely counterproductive" and detrimental to patients health workers and communities alike. "To the extent that we've subverted that structure, we've succeeded."

Until money is available for decent community psychiatric care, the artificial conflicts between civil libertarians, indignant communities and pathetic ex-inmates will probably continue. Until such care is provided, many health officials are urging a moritorium on the release of patients into hostile communities. "Freedom to be sick, helpless and isolated," says Dr. Robert Reich, director of psychiatry for New York City's Department of Social Services, "is not freedom. It is a return to the Middle Ages, when the mentally ill roamed the streets and little boys threw rocks at them."

NATIONAL PRAYER BREAKFAST

Mr. HANSEN. Mr. President, nearly 3,000 guests, leaders of the United States and over 100 other nations of the world, gathered in Washington, D.C., on January 31, 1974, for the 22d annual National Prayer Breakfast.

This gathering, hosted by the Senate and House breakfast groups, has served to emphasize our continuing reliance upon God and our rededication to the spiritual principles which are the strength and foundation stones of our Nation.

Mr. President, I feel that the remarks delivered at the National Prayer Breakfast should be available to those who attend, as well as to a larger audience.

Accordingly, I ask unanimous consent that the transcript of the breakfast be printed in the RECORD, and I commend these remarks, and the spirit in which they were delivered, to all.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL PRAYER BREAKFAST

PROGRAM

Opening Song: "Thanks be to God," Varsity Glee Club, Purdue University.

Presiding: The Honorable John C. Stennis, United States Senate.

Opening Prayer: The Honorable Jewel Lafontant, Deputy Solicitor General.

BREAKFAST

Introduction of Head Table and Statement: The Honorable John C. Stennis.

Greetings from the House Breakfast Group: The Honorable William Jennings Bryan Dorn, U.S. House of Representatives.

Old Testament Reading: The Honorable William H. Rehnquist, Associate Justice, U.S. Supreme Court.

Greetings from the Senate Breakfast Group: The Honorable John C. Stennis.*

New Testament Reading: The Honorable Carl Albert, Speaker, U.S. House of Representatives.

Prayer for National Leaders: The Honorable Gerald R. Ford, the Vice President of the United States.

---

*The Congressional Committee has specially requested that Senator Stennis share his experiences of the last year resulting from prayers on his behalf from throughout the nation.

Message: The Honorable Harold E. Hughes, United States Senate.

The President of the United States.

Closing Song: "Amazing Grace," Varsity Glee Club.

Closing Prayer: The Honorable Andrew Young, U.S. House of Representatives.

THOUGHTS BY DAG HAMMARSKJOLD

God does not die on the day when we cease to believe in a personal deity, but we die on the day when our lives cease to be illumined by the steady radiance, renewed daily, of a wonder, the source of which is beyond all reason.

What makes loneliness an anguish
Is not that I have no one to share my burden,
But this:
I have only my own burden to bear

Forgiveness is the answer to the child's dream of a miracle by which what is broken is made whole again, what is soiled is again made clean. The dream explains why we need to be forgiven, and why we must forgive. In the presence of God, nothing stands between Him and us—we are forgiven. But we cannot feel His presence if anything is allowed to stand between ourselves and others.

The best and most wonderful thing that can happen to you in this life, is that you should be silent and let God work and speak.

* * * * *

Ladies and Gentlemen, the President of the United States and Mrs. Nixon, Senator and Mrs. John Stennis, Mr. and Mrs. Edward Cox, and others at the Head Table:

HEAD TABLE

The Secretary of State, Hon. Henry Kissinger.

The Secretary of the Treasury and Mrs. Shultz.

The Secretary of Defense and Mrs. Schlesinger.

The Secretary of the Interior and Mrs. Morton.

The Secretary of Agriculture and Mrs. Butz.

The Secretary of Commerce and Mrs. Dent.

The Secretary of Labor and Mrs. Brennan.

The Secretary of Health, Education and Welfare and Mrs. Weinberger.

The Secretary of Housing and Urban Development and Mrs. Lynn.

The Honorable Ann Armstrong, Counsellor to the President.

H.E. Dr. Guillermo Sevilla-Sacasa, the Dean of the Diplomatic Corps.

The Honorable Walter E. Washington, Mayor of the District of Columbia and Mrs. Washington.

The Honorable Sherman Tribbit, Governor of Delaware and Mrs. Tribbitt.

H.E. Flavio Portela Marcilio, Brazil.

Dr. Orlando Montenegro Medrano, Nicaragua.

H. E. Mr. Ibo Noumair, Ethiopia.

Dr. Billy Graham.

OPENING PRAYER: THE HONORABLE JEWEL LAFONTANT, DEPUTY SOLICITOR GENERAL

Eternal God, Father of us all, look with favor upon these, thy servants. Help us to so resolve that our purposes and endeavors may be acceptable in Thy sight. We ask Thy blessing upon Thy people everywhere, and to those who have a special need, we lift a special prayer. Commit us to Thy causes, remembering that righteousness exalts a nation, but sins may reproach to any people. Lift before us a clear vision of the city of God, and move us to labor without tiring for its building. As Thy servant Peter Marshall once prayed, "help us to stand for something lest we fall for anything." In Thine own name we pray. Amen.

OPENING STATEMENT: THE HONORABLE JOHN STENNIS, U.S. SENATE

Senator STENNIS. Please be seated. Mr. President, Mr. Vice President, Mrs. Nixon, distinguished guests, ladies and gentlemen, this 1974 National Prayer Breakfast is being broadcast live, to servicemen and women around the world. And, in addition, concurrent prayer breakfasts sponsored by chaplains in the field are being held in nearly 500 military installations and ships at sea, with an estimated attendance of over 100,000 service men and women. Now, the list of distinguished guests, the original list, is on your printed program and we will not introduce those guests. We are delighted to have such a distinguished list of distinguished guests.

It is my great honor to welcome each of you individually, leaders of our nation, and distinguished guests from abroad.

As 3,000 of us are meeting here today in fellowship made possible by the spirit of Jesus Christ, this hour is not unique. Our presence indicates the desire of each of us to rise above the issues that divide us to the greater community we experience through our faith in God. We are from diverse backgrounds, from all 50 states and many countries. Though many political, economic, philosophical and religious viewpoints are here today, this fellowship hour is a meeting of friends, as people have reached out in the spirit of Jesus Christ to discover each other. Many of you meet with others on a regular basis, across the nation and throughout the world. The growth of these small groups has been phenomenal. These are not meetings where people of one point of view gather together to reinforce a common bias, instead we are actually experiencing friendship on a new basis and high level, so that people in opposite camps have come to trust and to appreciate each other, even though strangely disagreeing, strongly disagreeing in other things. This process is not always easy, but it is necessary. We meet in a spirit of humble acknowledgement, not for show but of our need for God's help in our lives, our need for each other's prayers, love and encouragement.

The true greatness of this hour, though, lies in the fact that this is not an isolated experience of faith and concern, but of continuing fellowship in which we seek to encourage each other by precepted example to implement the words of Christ to love the Lord Your God, with all your heart, soul, strength of mind, and to love your neighbor as yourself. Now, may this breakfast be a reminder of what we want to happen individually and in small groups on a daily basis among all citizens. May we find inspiration to further commit ourselves to being and to building bridges of communication and understanding and inspiration between people as God gave us the strength to do so.

Now, first on our program, I will present the Chairman of the House Prayer Breakfast Group, Congressman William Jennings Bryan Dorn of South Carolina, who will bring you greetings from his group. Congressman Dorn. (Applause)

GREETINGS FROM HOUSE PRAYER BREAKFAST GROUP

Representative DORN. Thank you, Senator Stennis, President and Mrs. Nixon, Vice President and Mrs. Ford, distinguished guests, ladies and gentlemen, it is a great honor for me this morning to bring you a word of greeting from our House Prayer Breakfast Group. We meet every Thursday morning on the House side of the Capitol. There we meet in a spirit of love, fellowship, and understanding which crosses all party lines, which encompasses all religious denominations, and over the years it has been my pleasure to serve there with men and women from virtually all religious faiths. We meet there, all of us, in the spirit of Christ, and I think that it is a great help in sustaining us during critical periods in solving problems and considering legislation so vital to the welfare of this nation and the peoples of the world. Our group, as you know, was formed during the critical years and critical period of World War II. Was founded on the House side and on the Senate side by the late Dr. Abram Vereide and the late great distinguished columnist, Mr. President, whom you remember so well, Mr. David Lawrence. This has been a great sustaining influence on us over the years, as we pass through one crisis and another. I might say to you this morning, that this is a nation, under God. The tradition of prayer was handed down to us from the earliest memory of us in school when we saw the picture of George Washington at Valley Forge on his knees, asking for divine guidance on the cause of the Revolution. Then, later on, we know, as Dr. Billy Graham reminded us, the House group, on one occasion, Abraham Lincoln set an example of prayer and humility which has sustained us in many of our deliberations. And Benjamin Franklin, at the Constitutional Convention. And Ladies, and Gentlemen, I remember Dr. Albert Einstein caused some fear that perhaps the chasm between scientific and technological development might widen and leave behind the forces of religious, moral, and spiritual progress.

I might report to you today that all of our great astronauts, with whom I have talked, many of them are interested in our prayer group. Every one of them has confirmed a great and abiding faith in a Master builder. They tell me that they know exactly where Mars is going to be in 1983. Or 1985. Down to the 10th of an inch in space. These men have mastered science and technology, but they still have the great respect, utmost respect, in the Master builder, of this Earth and the Universe. And they know that this Master builder does exist and that moral and spiritual advancement as we see here this morning, and in our world today, is advancing and keeping pace with the scientific, technological development.

I bring you this word from the House in the spirit of love, fellowship, and in the Spirit of Christ. [Applause.]

Senator STENNIS: Thank you, Congressman. In an Old Testament reading, Associate Justice of the United States Supreme Court, the Honorable William H. Rehnquist, will bring us this reading,

OLD TESTAMENT READING

Mr. Justice REHNQUIST. I am going to read the 121st Psalm. "I will lift up mine eyes to the hills from whence cometh my help. My help cometh from the Lord which made Heaven and earth. He will not suffer thy foot to be moved. He that keepeth thee will not slumber. Behold he that keepeth Israel shall neither slumber nor sleep. The Lord is thy keeper. The Lord is thy shade upon thy right hand. The sun shall not smite thee by day nor the moon by night. The Lord shall preserve thee from all evil. He shall preserve thy soul. The Lord shall preserve thy going out and thy coming in. From this time forth and even forever more."

GREETING FROM SENATE BREAKFAST GROUP

Senator STENNIS. Thank you very much, Justice Rehnquist. My friends, you have heard the Congressman present the House greetings from their breakfast group. And I am scheduled to bring you greetings from the Senate breakfast group. Very similar to the one described already, I'll say this: It is perhaps the most personal and intimate association that we have as fellow members of our Senate, including all of our experi-

ences together, official and non-official. All areas of the nation are represented in our group, all ages, all religious and political faiths are represented in this group, but none are emphasized, No member wishes to predominate. We seek God's guidance there, directly, very frankly, through the spiritual experiences largely that each member has had and shares with his fellows. Many have said, and I say with them, it is the finest experience we have as members of that body.

Now, without my knowledge or consent, the program committee volunteered me to say something about my recent experiences in the last year. As this part that I've selected is so intimately connected with prayer, I present it in that spirit.

My friends, in my first fully conscious moment after a very serious operation, I awakened. My daughter was standing by the bed holding my hand and she said, "Daddy, the people in Mississippi are holding prayer meetings for you, and Mother and all of us in our family, and many others, are praying that you get well. We believe you will."

Well, she went on out, and I remember trying to reconstruct. I couldn't do it then but finally did a proper verse—"The effective fervent prayer of righteous man availeth much." But a very powerful impact of what her statement told me to think, I said to myself "prayer meetings for me?" Then I am in great danger. And I may not survive. It is alright for you to smile, but at that time it wasn't a smiling matter. Now prayer, prayer proved to be the central focal point in my thoughts which sometimes wandered for many days. Short, silent prayers were always a rallying point while I was in that condition. These were not distress calls. It appeared very clear to me the easier way was just to pass on, to die. But it was clear that to live required struggle—required a will, a will to do, a will to try, a will to overcome obstacles. If that successful inner will to overcome life's many problems, then gradually I learned of letters, messages, flowers, many remembrances from many well wishers, who always sent a word or two of their prayers for my recovery, that was a source of strength. In time I became a little better. I want to mention this. I felt sure that my prayers were being answered. And others' prayers, theirs' were being answered, not especially mine. But later my chief surgeon said, "A high hand entered your case." I know he meant what he said and I believe he was right. Really, later I realized that waves of compassion had flowed in from all over the nation, for many days, not for me as an individual but sometimes something moves the people, and this compassion, this interest, and these many prayers proved to me clearly, more than ever before, that we have a great repository of spiritual faith and spiritual strength in our nation that abounds nationwide in the hearts and minds of millions of Americans. I'm sure such faith abounds in many other nations. And this is founded, I believe, in a solid faith in God—a faith that builds strength. This in time gives faith and strength to others. It all creates a reservoir of strength and faith that sustains our nation. So let no cynic stop at your door, or at my door, or at any door with his cry that we live in a faithless age, or that our nation, or its leaders, or its people have grown weak, or that our people by and large are discouraged. They are not! Instead we are still essentially a nation of faith and prayer. So let us trust and keep the spirit, or let matchless example of the faithful in that American army led by George Washington in the severe winter of 1777, encamped at Valley Forge, near Philadelphia. All do not know it, but during that winter one-third of those men died. Further, few know that the food, clothing, and supplies were so short that another one-third left, that is, they went away and failed to return, but the other one-third stayed and following the example of their illustrious leader, they also prayed. In the spring, General Washington took the one-third who stayed and prayed and formed the hard core of another army, which a few years later forced the surrender of Cornwallis at Georgetown. Thus, our independence was attained. Didn't take a majority. Didn't have a majority. Only one-third. They survived. They had something—grit, determination, tough-minded and tough-skinned, and if I may say, tough-souled. The historian who related these facts to me that when he told the late General Eisenhower the same facts, the General removed his hat, bowed his head in prayer, and said, "here, thank God, our nation was born." I believe he is right. But I believe, through prayer, faith and other spiritual values, our nation in spite of problems, has lived almost 200 years. And I believe that by these same values shall live for more than a thousand additional years. God bless and inspire and lead us who try. God bless America and every other nation here. (Applause).

Now, we will have a New Testament reading by the Speaker of the House of Representatives, the Honorable Carl Albert.

NEW TESTAMENT READING

Representative ALBERT. Our New Testament reading is taken from Roman XII, Verses 1–2, 9 through 17 and 21. "I appeal to you, therefore brethren, by the mercies of God, to present your bodies as a living sacrifice, wholly and acceptable to God, which is your spiritual worship. Do not be conformed to this world but be transformed by the renewal of your mind, that you may prove what is the will of God, what is good and acceptable and perfect. Let love be genuine, hate what is evil, hold fast to what is good. Love one another with brotherly affection. Outdo one another in showing honor. Never flag in zeal. Ye'll glow with the spirit. Serve the Lord. Rejoice in your hope. Be patient in tribulations. Be constant in prayer. Contribute to the needs of the saints. Practice hospitality. Bless those who persecute you. Bless and do not curse them. Rejoice with those who rejoice. Weep with those who weep. Live in harmony with one another. Do not be haughty, but associate with the lowly. Never be conceited. Repay no one evil for evil, but take thought for what is noble in the sight of all. Do not be overcome by evil, but overcome evil with good."

Senator STENNIS. We are privileged to have prayer. I think we will remain seated at this stage in the program. This prayer for our national leaders by the Vice President of the United States, the Honorable Gerald R. Ford. (Applause).

PRAYER FOR NATIONAL LEADERS

Vice President FORD. Dear God, and Father of us all, whose nature we know imperfectly, whose love we know abundantly, through Thy servants and saints who have walked among us, whose strength sustains us, whose mercy pardons us, and whose righteousness endures forever. Bless us, dear Father, and guide us by Thy might. Here we pray the petitions that lie within each secret heart, beyond our power whether alone or together, before Thee this new day. Where we have strayed, lead us back to Thy fold. Where we have lost our way, rescue us. Where we have sinned, forgive us. Where we have done well, help us to do better. And where, by Thy grace, we have done Thy will transform the occasional to the habitual. Translate one right to living righteousness and preserve us from pride. Be not far from us when trouble is near, and there is none to help have Thee. Send us help from Thy sanctuary, hear us when we call, and strengthen us out of Zion. Bless this nation born in trust of Thee and sustained by Thy favor. Bless the President of the United States, the Congress, and the Courts that reach out on earth for the justice Thou hast ordained in heaven. Bless all the nations and the peoples of the earth, and those who exercise government over them by Thy will, and give us peace now and forever. We ask these favors and these blessings in Jesus' name. Amen.

Senator STENNIS. We are blessed to be favored now by a special message by the United States Senator from Iowa, the Honorable Harold E. Hughes.

SPECIAL MESSAGE

Senator HUGHES. Thank you very much, Senator Stennis, Mr. President, Mrs. Nixon; Mr. Vice President, Mrs. Ford; distinguished members of the Cabinet, and of the Courts, and of the Congress; our guests from foreign nations and fellow Americans. We are gathered here this morning for the purpose, certainly not unique in history, but as a nation in what is called a National Prayer Breakfast. That, in itself, describes the only reason and purpose for gathering. Guests from many nations have joined us and visited us specifically for this occasion, to render under God what is his, all of Creation. In the beginning, God created the heavens and the earth. And all was without form, and void. And God said, "Let there be light" and there was light. From that point on, the linear history of the Bible is a record of the failure of man and the forgiveness of the Divine and loving Father.

Man has continuously substituted his personal wisdom for the law of God. In the attempts to gain victories that God said were free. He refused so completely that the entire earth was consumed in a great flood, and only a few chosen that the seed might continue. And the story began again. And man continued in his own way to fight for the victories that our Father said is free, simply, by following a few very simple laws. In the final instance, for those of us who follow Christ, we believe that our Father sent his own son to the Earth, to the Earth, and he walked in peace, a meek and human man, suffering every temptation even as we have suffered, faced with every question that we have faced, humilitated, not believed. Seeking out the sinner and saying, "Come unto me, and I will lighten your burdens." And when asked why he sat at table of sinners, he replied, "It is not the healthy that needs a physician, but those who are ill." And yet, we strayed and couldn't grasp even those few men whom he had gathered about him and our Father had ordained from the beginning would be with him, and he said, "How long must I suffer to be with you and you know me not? How long that you fail to understand my ways and the directions of the Father?" And when the questions were raised, an ambition arose in those who were surrounding him, a simple few men, not selected for their intellectual capacities or their worldly achievements, but because our Father looks into the hearts of men and women, not at their laurels or their gains of material wealth, but what they are. He sees and He knows. And for whatever purpose, history has proven that this small band of brothers, altered and changed the course of mankind, and that those who followed them, attempting to follow and style their lives as they had lived, have repeatedly altered and changed the course of history.

God did not demand that there be a majority, in fact, in the history of mankind he has said many times, "Just give me a few, even 10 will save a nation, a few, a great city, living in faith, trust and obedience." The laws of God are immutable and so simple that we, in the complexity of our existence, unable to control our will, unwanting to lay down the treasures that are temporal,

and forgetting the purpose of our existence, struggle on. How long will the loving Father continue to send His message into the world? But Jesus said, "If you see me you see the Father." And they asked him, how many times must I forgive, and he said, "Seventy times seven." Limitless, and he taught us to pray, "forgive us as we forgive those who trespassed against us." A courageous prayer, a dangerous prayer, if that is the only forgiveness we can receive. "As we forgive" we will be forgiven.

In the midst of times that have caused many to despair, there is an awakening in the world not unnoticed, but in most of the nations of the earth, and in all probability, all—and certainly the length and breadth of this land—and the example of history is before us, of God taking the failure of individuals and changing them into the glorious victory of their lives. My life is a perfect example of that. As an alcoholic, a failure in despair, and finally defeated and beaten to my knees, crying out in the agony of my own soul, "God help me, I can no longer help myself." And the Bible says the groanings of my soul will be heard in Heaven if I cannot utter a word. And from that moment on, my life changed. Almost 20 years have passed from that time. The Lord has led me in many ways in the course of those years. Unexpectedly, there have been radical changes in my life in the attempt to follow the will of the Holy Spirit as it directed me in my life. And in nations, the failure of men and women has been forgiven time and time again, and God has used their greatest indiscretions to rebuild their foundations and raise up again, to His glory, not for ours, His people and the earth. That message is clear, simple. It is yours. "Come unto me ye who are heavy laden. Take up my yoke. It is easy to bear. It is a joy, a freedom, no prison can contain the freedom of Christ in the spirit. Nothing can defeat it in all of Creation. That means ye shall stand even against the gates of Hell." Now, either the Lord spoke to us in truth and as Paul said, "If it be not truth then we of all who follow and believe in His name are foolish." But if he did speak truth, and if living he was placed on a cross and died, buried in a grave and rose from the dead, and ascended into Heaven to sit at the right hand of the Father, and said unto us, "Look at me. I'm in the Father, the Father is in me, and you are in me, and I in you."

Then in that combination we sit with Jesus Christ at the right hand of God Almighty, in the seats of the power, and the battle is the principalities in powers and forces of evil not of this earth, and they are doomed, because the word of God came in truth in Jesus Christ and revealed to us Eternal Life. I thank you, Father, that you have set us free. I thank you, that you have paid the debts of my sins. I ask your forgiveness for myself and I hope that each of us here can accept the great glory of Eternal Life because the debt has been paid in the blood of our Savior. And so, the book ends. Even so, Lord Jesus come.

Would each of you join hands around your table, just for one moment of prayer. And I would like someone at the table to pray if the spirit moves them. If not, you may remain in silence.

Father, we thank you that we have joined together in communion with you and your Spirit. Thank you. As St. John the Baptist, said, "there is a stranger in your midst, and ye knew him not." Where two or three are gathered together in my name, there shall I be also. And all the things I have done, ye shall do and even greater than these shall you because I shall send you a Comforter, and that Comforter shall be the spirit of truth, and it shall instruct you and guide you, and never fear, for whatever the occasion, it will speak for you and through you and in you, throughout Eternity, and there is no other name in all creation except that name by which man might be saved. Thank you very much. (Applause).

Senator STENNIS. Now, ladies and gentlemen, it is our privilege to have, and my great privilege and great honor to present, the President of the United States. (Applause).

REMARKS OF THE PRESIDENT

President NIXON. Mr. Vice President and Mrs. Ford, Senator and Mrs. Stennis, and all of the very distinguished guests here, and those who may be listening on television and radio to this National Prayer Breakfast, it has always been the custom that the President has the privilege of making the final statement at these breakfasts, and, as usual, having that responsibility is one that is difficult because of the eloquence that has usually preceded him, and the statements that have been made which make what he says simply repetitive of what has gone on before. There are some thoughts, very brief ones that I would like to leave with you this morning, however, that have occurred to me. And one is how very thankful we are that it was just a year ago that we had the Prayer Breakfast. Senator Stennis was supposed to be in the position that he now occupies. He could not come, and I had the privilege of reading a note that he had scribbled when he first became conscious, just after he had had his operation at the hospital—a note to the Prayer Breakfast. We are so thankful that John Stennis is well and strong and that he is with us today. (Applause).

And, as usual, we are very proud to have all of the visitors from abroad, the ambassadorial corps, the visitors from various countries, the Purdue Glee Club which has honored us with its presence here today. You know, we have something in common. When I went over and had my picture taken, I asked whether any of them were on the Purdue Football Team and nobody held up his hand. I said, "Just like me, I made the glee club but I didn't make the football team." But what a great glee club it was. If their football team was up to the Glee Club, they would be in the Rose Bowl. (Applause).

And I know that many have made a great effort to come to this prayer breakfast from various parts of the country and the world. Billy Graham was taking a long, needed vacation at Acapulco. I rode up with him in the car. I can assure you that the tan he has is real. That's no makeup, and he is going to go back to see his wife Ruth after this prayer breakfast and perhaps after several other engagements today with members of this group.

When I first addressed a prayer breakfast as President, I made a statement about all the Presidents of this country. You know, the difficulty with a President when he makes a statement, everybody checks it to see whether it is true. In this particular instance, I stated what I thought was the truth, and that was, that every President in our history had been a religious man, had belonged to a church. Afterwards, I received quite a few letters from people who said, "what about Lincoln?" And so I had to go back to the history books to find out about Abraham Lincoln. And I found that his law partner, who practiced with him in Illinois, had written the first biography of Lincoln and said that he was a man who had no religion. As a matter of fact, he was a nonbeliever. I found that when he ran for Congress, his opponent was an Evangelist, and although Lincoln won that year for Congress, his opponent who was the Evangelist campaigned against him on the basis of Lincoln being a nonbeliever. I found also that Lincoln never joined a church, one of the few Presidents who never belonged to any church. He often attended with his wife the New York Avenue Presbyterian Church, and the pew so marks the place where he and his wife used to sit. He never formally joined a church. But in a very fine little book, and the size of the book does not decide how fine it is, Elton Trueblood, in 1973, on the religion of Lincoln, the anguish that he went through during the war between the states, makes some eloquent points about Lincoln, the man with a very deep religious conviction. He said that, although he never belonged to a church, he probably prayed more than any man who has ever been in the White House. The reason he prayed more was perhaps twofold, one, because he had a mystical sense of the destiny of America.

He did not have a feeling of arrogance about his side as compared to the other side. He did feel that America was destined to be united. He did feel that for that reason that some way, somehow, after that terrible struggle in which men on both sides, and women on both sides, prayed fervently to the same God, that it would come out all right, and he did believe that America had something to stand for, something to believe in, and something to do in the world bigger than itself, and he often said that. In other words, there was something other than Lincoln, the politician, the President, and the American people, each individual; there was what he called the Almighty, the Universal Being, sometimes he referred to him as God who guided the destiny of this nation.

The second reason that Lincoln must have prayed so much was because the problems of the country were so great. When you think of the fact that his wife had several brothers who fought on the Confederate side, some of them killed. Think of the tragedy that marked his life, one of his sons died while he was in the White House. When you think of all these things, you can see why this man, who had such deep emotional feelings, often went to his knees in prayer, although he did not belong to any church.

And finally, I know in reading this little book by Elton Trueblood, that while Lincoln prayed more perhaps, or at least it is said that he probably prayed more than any President who has been in the White House, it is very funny it is very hard to find any kind of an oral prayer. He was on his knees and he prayed in silence. I often wondered about that, and I thought a little of my own upbringing. About the place of silent prayer, and there is, of course, a place for both. My father who was a Methodist believed very strongly in spoken prayer. My mother who was a Quaker believed in silent prayer, and both agreed there was a place for both.

When I was 8 or 9 years old, I asked my grandmother, a very saintly woman, a little Quaker lady, who had nine children,—I asked her why it was that the Quakers believed in silent prayer. When we sat down to table, we always had silent prayers, and often at church, while we sometimes had a minister or somebody got up when the spirit moved him, we often just went there and just sat, and we prayed. Her answer was very interesting, and perhaps it relates to why Lincoln prayed in silence. My grandmother spoke to me on this occasion, as she always did to her grandchildren and children, with the plain speech. She said, "What thee must understand, Richard, is that the purpose of prayer is to listen to God, not to talk to God. The purpose of prayer is not to tell God what thee wants, but to find out from God what He wants from thee."

Now, my grandmother did not believe that others who used oral prayer were wrong, because that would not have been the Quaker way. She thought, they might be right, and in fact, both could be right.

We read Lincoln's Second Inaugural, the most eloquent of all the inaugurals, and we see it all captured there, pointing out that people prayed on both sides, and yet the war had come. But not speaking in arrogance about the North against the South, but expressing his belief that the destiny of this

nation would eventually be served by the survival of the Union. So the thought I would leave with the body here today, is very simply this: I too believe that America has a destiny. I do not believe that, in a sense, as some national leaders in times past have believed it about their countries—our destiny was not to rule any other country. Our destiny is not to start war with any other country. Our destiny is not to break freedom but to defend it. Our destiny also is to recognize the right of the people in the world to be different from what we are. Even some may have different religions. Even some we must accept may not have a religious belief as we understand a religious belief. But, on the other hand, while I know this goes counter to the ideas that many of my good friends in this audience who believe—as my mother and father believed in the missionary work of our church—I think America today must understand that, in its role as a world leader, that we can only have peace in the world if we respect the rights, views of our neighbors, our friends, and the people of all the nations of the world. It is that respect for other people, despite differences in religion, that has brought us so far along the road to world understanding and world peace over these five years. Rather hard for us sometimes to have that respect. Sometimes for each other in our political process, and sometimes for other nations who have totally different political views, but I only suggest that we go back to Lincoln. Of course, I go back to my grandmother. And I would pray for this nation, at this time, and I hope all of you would too, whether orally or in silence, that we try to listen more to what God wants rather than tell God what we want. That we would try to find out what God wants America to be rather than to ask Him always to see what we believe America should be prevails. Call this humility, which they called it in Lincoln's days, call it what you like, but it is the way a great country ought to be.

America is a nation of destiny and whether freedom survives in the world and whether the weak nations of the world can be as safe as the strong, which is our goal, depends on America. I do not say this in arrogance, I do not say it without recognizing that other great powers, in a different way, may also work together with us for that great purpose, but I do know that without American strength, and I speak not just of our military strength primarily—primarily I speak of our moral strength and our spiritual strength and our faith in our national destiny—without America's strength the world would not have the chance today that it has for freedom and for peace and for justice in the years ahead. And so, my friends, may I thank you all for the prayers I know you have offered for our national leaders. May I urge you all, whatever your faiths may be, to pray in the future at times in silence. Why? Because, too often, we are a little too arrogant. We try to talk to God and tell him what we want. What all of us needs to do—what this nation needs to do—is to pray in silence and listen to God and find out what He wants for us, and then we will all do the right thing. (Applause.)

Senator STENNIS. After the closing prayer, the meeting for this year will be dismissed, with the thanks of all for your attendance, for your taking part. There has been a fine response, it seems to me.

CLOSING PRAYER

Now, a member of the House of Representatives, the Honorable Andrew Young of the State of Georgia, will give our closing prayer. Please stand.

Representative YOUNG. We give Thee thanks, dear Father, for the abundance of our blessings upon us, and upon this nation. We give thee thanks for this fellowship, for the sharing of Thy blessings, for the sharing of Thy wisdom, for the opportunity to know how Thou has acted powerfully, mightifully, and mercifully, in the lives of each of us. And yet, dear Father, it would be inappropriate if we closed without confessing our sins, for we know, too, that we have erred and strayed from Thy ways like lost sheep. We have often followed too much the devices and desires of our own hearts, and offended against Thy holy laws, but we are thankful than Thou art merciful, and thus continue to be with us, not because we merit, but because Thou does love us, even when we are weak, even when we go astray. We pray that in Thine abundant blessings, Thou might help us to know that, to us to whom much has been given, of us much will be required Require of us personally a kind of dedication and service to this nation that seeks not to transcend Thy cause of peace in the world, but seeks to fulfill that cause of peace. Help us to use the power and might with which Thou has blessed us, not in any arrogant, self-glorification, but in humble and obedient service to feed the hungry, to educate the children, to heal the sick, and to prepare amongst the highways and byways, a straight and glorious path through which all of Thy powers and mercies might be revealed to all men. We pray, dear Father, that as we leave this place that Thou will bless us and keep us. That Thou would make Thy face to shine upon us and be gracious unto us. We pray that thou will lift up the light of Thy countenance upon us and give us great faith. Give us courage amidst the days' crisis, and give us a sense of understanding of Thy will, through which we might find true and lasting peace. Through Jesus Christ, our Lord, we pray, Amen.

DR. FLETCHER'S REMARKS AT SPACE CLUB LUNCHEON

Mr. MOSS. Mr. President, last week Administrator Fletcher of the National Aeronautics and Space Administration addressed a luncheon meeting of the National Space Club here in Washington. His remarks concisely sunmmarize the present status and future opportunities of the Nation's peaceful pursuits of exploration and use of outer space. I ask unanimous consent that Dr. Fletcher's remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

DR. FLETCHER'S REMARKS, FEBRUARY 14, 1974

I last spoke at a Space luncheon in November 1971.

My topic then, assigned by your program chairman, was "The NASA Space Program Today—and Tomorrow".

At that time the "tomorrow" part of the NASA program—the program beyond Apollo, Skylab, and Viking—was still a bit uncertain. You were worried about it and I was, too.

We were still wrestling with various approaches to defining the Space Shuttle. And we were trying to work out something less costly and less uncertain than the so-called "Grand Tour" for exploring the Outer Planets. And we had no approved plans for the Inner Planets after Viking.

Even my concluding sentence, two years ago, was somewhat "iffy". "When we get the Space Shuttle and the Outer Planets program over the hump and into serious development", I said, "we will have the assurance of challenging and rewarding programs for tomorrow."

That situation, I am glad to report, has changed.

We got the Space Shuttle over its last big hump last week, in the President's Budget for FY 1975. We slipped a little as we approached the top, but we went over.

We now have an agreement with the Office of Management and Budget that the first manned orbital flight of the Shuttle will be launched in the second quarter of 1979, without any more slips for budgetary reasons.

We are now getting into intensive development of the Shuttle, with $800 million for Shuttle R&D in our FY '75 budget. We have to have a firm schedule from now on to manage the Shuttle effort efficiently and to coordinate the development of the advanced new payloads the Shuttle will launch and service. The OMB agrees with us on this. I am confident the Congress will also agree. Dale Myers and his team expect no delays for technological reasons.

There is a great deal of hard work still to be done, but the Shuttle, we can say, is really over the hump. And the prospects for tomorrow in the nation's space effort are much brighter for it.

We are over the hump, too, in our planetary program. Mariner 9 did it for us by mapping Mars in great detail. Pioneer 10 did it with its outstanding technical performance, its safe voyage through the Asteroid Belt, and its fascinating reports on Jupiter and its moons.

Mariner 10 has performed well, despite some difficulties, on its sweep past Venus and on toward Mercury.

In our planetary program we also have Pioneer 11 enroute to Jupiter and possibly Saturn; two Vikings scheduled to land on Mars in 1976 and, among other things, to search for life on this planet; two Mariners to be launched to Jupiter and Saturn in 1977; and—this is a new start in our FY 1975 budget—two Pioneer spacecraft to explore Venus in 1978.

One of the Pioneer Venus spacecraft will send four probes into the Venus atmosphere at widely separated points. The other will make special studies of the Venus atmosphere from continuous orbit.

Later this year NASA will launch the first of two Helios spacecraft developed by the Germans. They will orbit the Sun well inside the orbit of Mercury. They will not investigate the Sun itself, but what is happening in interplanetary space in this central region of the Solar System.

Helios is an excellent example of the valuable contribution other countries can make to the high priority mission of exploring throughout the Solar System.

When I say we are over the hump in our planetary program, I mean we are no longer uncertain about the future. We now have challenging programs approved for this decade, and we have a sound planning base and technology base for what we want to do in the 1980s.

I think we have "earned" this feeling of confidence about the future for two main reasons:

One. Current programs are producing results of great value to science—and results that will have great practical value, too, like the new understanding we are getting of Earth's atmosphere and weather from our studies of the thin atmosphere of Mars and the very heavy atmosphere of Venus.

Two. We have clearly demonstrated, with Pioneer 10 and other relatively small spacecraft, that we have the technology to explore all the planets in a meaningful way, and a methodical way, at reasonable cost.

We are getting results, and we are holding down the costs. So I think we *should* and *will* get new assignments to explore throughout the Solar System during the remainder of this century.

Speaking of results, let me mention this globe of Mars I have here. It represents one of the great scientific and technical achievements of this decade.

This is a 16-inch globe, but it is based on a big one four feet in diameter. The big one was prepared from more than 1,500 actual photographs sent to Earth by Mariner. A scientific team at the Jet Propulsion Laboratory worked for more than seven months to

fit these pictures together in the proper places on the globe.

Three of the large globes have been made. One is now on display at NASA Headquarters. I wanted to bring it with me today, but they said I couldn't get it on the elevator.

This smaller globe of Mars shows all the major features that are on the big one. It also shows the official names that have been given to newly discovered features of Mars by the International Astronomical Union.

I am proud to say the most prominent feature is Valles Marineris in Latin and Mariner Valley in English. This is the great rift valley that is long enough to stretch clear across the United States, and appears to be five miles deep in places.

This globe shows the polar caps at their smallest size. In other words, according to this globe it is late summer at both the North and South Pole of Mars. This was done to reveal the surface features which are obscured during the winters on Mars.

The albedo markings, the large dark areas that have been air brushed on, are what astronomers on the ground have seen, or thought they saw, over the centuries. As far as we can tell from the Mariner pictures, there is no apparent explanation for these markings. So the markings on this globe are just a blend of the old and the new—the traditional view of Mars brought up to date with volcanic mountains, plains, craters, and what appear to have been ancient stream beds carved out by running water.

THE 1973 NASA PAYLOAD MODEL

Our confidence in the future has been well expressed by—and strengthened by—a detailed planning exercise we completed last October.

The primary purpose of this exercise was to see what payloads we could develop and fly on the Space Shuttle in the 12 years from 1980 to 1991, with an annual budget at about the level we have today.

The results of the exercise are summed up in a document called *The 1973 NASA Payload Model*. A limited number of copies are available from NASA. It has also been reprinted in a hearing record of the Senate Committee on Aeronautical and Space Sciences entitled *Space Shuttle Payloads* and is for sale by the Government Printing Office.

This Payload Model is *only* a model, of course, and represents one version of what *could* be done in the 1980s. But I think it also gives a very useful indication of what we can realistically expect to be doing between now and 1991.

It is quite precise. It not only tells when we will launch a given payload, and what its purpose is. It also indicates what it will weigh, what its dimensions are, and at what heights it will orbit. This kind of precision is needed to assist in formulating the requirements for the Shuttle, Tug, and Spacelab. This precision also shows how various payloads can be combined on one Shuttle flight to reduce launch costs.

So our latest *Payload Model* is precise, long-range, realistic in budget terms, *and available*. All that makes it rather unusual as Washington documents go. At any rate, we are rather proud of it, and I think you will find it readable and useful.

It identifies a grand total of 810 payloads to be sent into space in the period from late 1973 through 1991. Of these, 60 percent will be automated, and 40 percent will be what we call sortie payloads—that is, they will be flown in the manned Spacelab module being developed by nine European countries.

So we have these two categories of payloads—automated and sortie. You could translate that into current terms as "unmanned" and "manned", but the terms "manned" and "unmanned" will be out of date in the Shuttle era. When the Shuttle is available, even the automated payloads will be launched to Earth orbit, serviced, and in some cases retrieved and returned to Earth by the Shuttle crews.

The grand total of 810 payloads includes non-NASA payloads for other government agencies, foreign agencies, and private industry. But Department of Defense payloads are not included.

The numbers are impressive, but much more significant is what each payload can do and what new capabilities it will create for exploring and using space. Some of the automated payloads the Shuttle takes to orbit will be very large and very sophisticated, like the Large Space Telescope which will weigh about 11 tons and carry a mirror 120 inches in diameter.

To see the shape of the future in space, let's take a look at some of these payloads, starting with the planetary missions.

OUTER PLANETS—TENTATIVE PLANS

Our last approved missions to the Outer Planets will be the Mariner flights to Jupiter and Saturn launched in 1977.

After that, according to tentative plans in the *Payload Model*, we may launch as many as 10 Mariner or Pioneer spacecraft to the Outer Planets in the 1980s, including flybys of Uranus and Neptune, probes into the atmospheres of Jupiter, Uranus, and Saturn, and orbiters around Jupiter and Saturn.

And in 1990 and 1991 we might send two very heavy payloads weighing 21,000 pounds each to orbit one of Jupiter's moons at an altitude of only 55 miles, and land an instrument package, including a TV camera, on this Jovian moon.

Most of the weight of these payloads will be accounted for by a nuclear electric propulsion stage, which will be needed to put the spacecraft in orbit around the moon of Jupiter. The descent to orbit will follow a spiral pattern.

INNER PLANETS—TENTATIVE PLANS

Here are our tentative plans for the Inner Planets:

By 1983 we may send two spacecraft to orbit Venus at a low altitude of 270 miles and map the surface by radar. By 1985 we may send two spacecraft to float in the Venus atmosphere at various levels, and by 1989 we may send a Large Lander to Venus and take TV cameras and other instruments to the surface.

We may return to Mercury in 1987 with two spacecraft which would orbit this Sun-scorched planet. One spacecraft would be in a circular orbit at 270 miles altitude, and the other would be in an elliptical orbit coming within 110 miles of the surface.

TENTATIVE MARS MISSIONS

We have no approved Mars missions beyond the Viking landings in 1976. But according to the *Payload Model* we may launch another Viking to Mars in 1979, two new spacecraft to bring back surface samples from Mars in 1984, and two similar spacecraft to bring back samples from the two moons of Mars, Phobos and Deimos, in 1990 and 1991.

TENTATIVE PLANS FOR AUTOMATED MOON MISSIONS

We have no approved plans to send either manned or automated spacecraft back to the Moon.

However, we are considering sending eight automated spacecraft to the Moon between 1979 and 1991.

These missions include: a Lunar Polar Orbiter in 1979; two other Lunar Orbiters in the 1980's; two Lunar Rovers in the 1980s which would travel as far as 60 miles during a year on the Moon; a so-called Lunar Halo Satellite which would assure communications with the hidden side of the Moon; and finally, in 1990 and 1991, two Lunar Rovers which could return samples to Earth from any point on the Moon. To date, no samples have been returned from the hidden side of the Moon.

TENTATIVE PLANS TO VISIT COMETS

Comet Kohoutek has been a very valuable source of information to astronomers.

I won't have the time today to go into what we learned about Comet Kahoutek, except to say that it appears to have come from outside the Solar System, from interstellar space. And it does appear to contain water molecules and organic molecules that could be precursors of life forms.

Kohoutek is now travelling in an orbit that will return it to the inner Solar System in about 75,000 years.

However, there are some comets, called short-period comets, which come around the Sun on schedule every few years. These are the ones we plan to explore.

For example, in 1979 a spacecraft weighing about 4,500 pounds could be sent to make a slow fly-by of the Comet Encke, coming within 3,000 miles of the comet's nucleus.

Comet Encke comes back around the Sun every 3 years, so that we can make a series of close-up investigations of increasing difficulty.

After the fly-by mission, a rendezvous mission will be considered. It would permit the spacecraft to enter the inner coma of Comet Encke and travel along with it. (The coma, of course, is the nebulous mass which surrounds the nucleus of the comet.) After the spacecraft has made a close-up study of the nucleus, a landing on the nucleus might be attempted.

The missions to Comet Encke are doubly important. They will yield valuable information, and they will help us prepare for the opportunity to make a fly-by close to the best known comet of them all, Haley's Comet, in 1985.

Haley's Comet comes back around the Sun about every 75 years. Each of its appearances has been recorded since the year 240 B.C. When it returns in 1985 we will have our first opportunity to examine it with a full complement of modern instruments on the ground and in space.

It is proposed to fly the Haley spacecraft within about 5,000 miles of the comet's nucleus.

TENTATIVE PLANS TO VISIT ASTEROIDS

Asteroids may be just as important to visit as planets and comets. Scientists believe asteroids can tell us a great deal about how the Solar System was formed and how life began here.

According to the *Payload Model*, we could send two automated spacecraft to visit large asteroids in 1986. They could send back TV pictures and other data from very close range—from distances measured in feet rather than miles.

I assume that some day we will want to send scientists to land on asteroids. Such landings would be relatively easy to make because the gravity forces to be overcome on landing and take-off would not be great. But such landings are not in our tentative schedule for the next two decades.

Planetary exploration takes patience. It cannot all be done in one big push like the Apollo program. We have to move step by step, decade by decade, in many different directions. But even so, a great deal will be learned, and many exciting voyages made, by the time we are ready for manned missions to the planets.

Now let us look at payloads in Earth orbit in the 1980s and 1990s.

PAYLOADS IN EARTH ORBIT

Earth orbit, that is where most of the action will be in the Shuttle era, not out in the Solar System.

Of the 810 payloads in our planning model, only 57 are destined for the Moon or planets and 753 for Earth orbit.

That's a ratio of 14 to 1 in favor of Earth orbit.

Put another way, in the 12 years begin-

ning with 1980, we will average three payloads per year to the Moon and planets and 57 to Earth orbit.

That's a ratio of 19 to 1 in favor of Earth orbit during the Shuttle era.

Many of our spacecraft in Earth orbit during the Shuttle era will be much more advanced and much more productive operational versions of the experimental scientific and applications spacecraft we are flying in this decade.

On the science side, there will be the Large Space Telescopes, High Energy Astronomical Observatories, Large Solar Observatories, Large Radio Astronomy Observatories, and very sophisticated focusing X-Ray Telescopes.

These large spacecraft, weighing up to 12 tons or more, will be unmanned but will be visited reguraly by Space Shuttle crews and brought back to Earth for refurbishing from time to time. With these prospects for long term use, we can build excellent spacecraft for a modest investment.

With these observatories in action, we will make unprecedented gains in understanding the Universe and its energy sources in the Eighties and Nineties.

In the applications field we are considering large Earth Observatory Satellites weighing 3½ tons which will be in the Sun synchronous polar orbit now used by ERTS–1. These Observatories will use advanced remote sensing techniques to monitor environmental quality, observe the weather and the oceans, survey Earth resources, and facilitate land use planning.

In other words, we think of the Earth Observatory Satellites as a modular spacecraft—or bus—that could carry different groups of instruments to cover a wide variety of Earth observations for many different users.

The advanced remote sensing techniques for the large Earth Observatories have been, and are being, tested out in Skylab, ERTS–1, and other current programs.

We are tentatively planning to begin launching these large operational Earth Observatories in 1978. Goddard Space Flight Center has asked for proposals to study their design. Two or more companies will be selected to conduct the studies.

We also plan to have operational Earth Observatories at synchronous orbit, beginning in 1981. The forerunners of these spacecraft are the two Synchronous Meteorological Satellites we plan to orbit this year. One significant difference is that the spacecraft we will orbit this year weigh 550 pounds but those planned for the Shuttle era weigh 5,000.

Another figure that indicates the direction we are heading concerns communications and navigation satellites.

NASA has only two planned at present: the Applications Technology Satellite (ATS–F) which will be launched this year and the Cooperative Applications Satellite which we are working on with Canada and which will be launched next year.

The *Payload Model*, however, lists 120 communications or navigation satellites to be orbited by NASA for other agencies or private industry (not including the Department of Defense) through 1991. Forty-three of these are for commercial communications within the United States. I would guess this number will climb, but that is the present projection, and it is impressive, especially when you remember these satellites must be sent to synchronous orbit.

The trend for other agencies and other governments to use space is already clear.

Of the 25 payloads scheduled for launch by NASA this year, only eight are NASA payloads; three result from international cooperative efforts in which NASA is a partner; and 14 are being launched for others on a reimbursable basis.

Seven of the reimbursable launches involve commercial communications satellites—three international, three domestic, and one maritime communications satellite.

I cite these figures to show that intensive use of space by others is beginning, and NASA welcomes this trend.

Of the three hundred or so sortie payloads—those flown in the manned Spacelab module—most will be NASA payloads.

They include substantial numbers in: Astronomy; Physics; Earth Observations; Space Processing; Earth and Ocean Physics; Communication and Navigation; Life Science; and Space Technology.

Of the non-NASA payloads, 10 are expected to be flown for private industry in the space processing field, beginning in 1985.

About 10 percent of the sortie payloads are expected to be foreign, but that's tentative, of course.

SHUTTLE IMPACT ON ENVIRONMENT

One question naturally arises when we consider the large number of missions contemplated in our *Payload Model* coupled with a rapidly increasing number from the Soviet Union (which made three times as many launches as we did in 1973).

What will be the impact of all these launches on the global environment?

We have had this under careful study since the earliest consideration of the Shuttle and we will design and fly a Shuttle which has *no harmful* effects on the environment.

The environmental impact statement filed two years ago discussed Shuttle noise and sonic boom, and also attempted to define the possible atmospheric influence of various exhaust gases. The atmospheric effects of added gases are complex and difficult to predict in advance—witness the problems with the automobile.

NASA has encouraged and funded the best people in atmospheric science to carry on a continuing study of Shuttle related atmospheric science to carry on a continuing study of Shuttle related atmospheric effects. This coordination with the knowledgeable scientific community is a key element in the Shuttle developmental program.

The effects of hydrogen chloride emissions from the Shuttle booster are currently under intensive study, with a particular focus on the posible effects of chlorine on atmospheric ozone. The plans involve a careful coordination of theoretical laboratory and field work. We do not think this will be a problem, but should the effects of using the propellants planned for the present Shuttle design turn out to be unacceptable, NASA has the option and indeed the commitment to proceed with alternative propellants.

BENEFITS OF SHUTTLE USE

I have one final point I would like to make about the *1973 NASA Payload Model.*

We have used it as the basis for a current study to compare the benefits offered by the Shuttle over present day or improved expendable launch vehicles.

We have found that the benefits made possible by Shuttle use in the 12 years from 1980 through 1991 will average more than $1 billion per year.

Most of these benefits will result from the decreased cost of payloads and from their reuse, but the Shuttle also offers significant savings in transportation as well.

QUESTIONS

Now I would like to come back to the questions I usually get asked: When will Americans return to the Moon?

When will we land men on Mars?

When will we establish a Large Space Station in Earth orbit?

MAN'S RETURN TO THE MOON

It is quite possible that the Russians will send men to the Moon for short stays during this decade, as we have already done in the Apollo program.

Whether we will want to send men back to the Moon on short Apollo-type missions requires further study. It is probably better to wait until we are ready to begin establishment of manned scientific bases for long term use, like our present bases in the Antarctic.

As I see it now, such bases on the Moon are not likely, even after 1991, unless they are built in international projects with the cooperation of the Soviet Union, the United States, and perhaps even Europe. Such bases would be too expensive for one country alone

PROSPECTS FOR MANNED MARS LANDING

I think manned exploration of Mars will be undertaken after we have had experience with large Space Stations in Earth orbit and with long stays in scientific bases on the Moon. Not that these steps are required—rather they are logical next steps in an orderly program.

Like scientific bases on the Moon, manned expeditions to Mars will likely be organized on an international basis. Even though such an undertaking is technically feasible now and would receive enthusiastic support from a large portion of the world's population, with all the other financial problems currently facing the developed countries it is unlikely that any one of them will foot the bill by itself—at least not in the next two decades.

PROSPECTS FOR A LARGE MANNED SPACE STATION

Skylab has clearly shown the potential value of the Space Shuttle and the Spacelab module, which can serve as a small space station accommodating about four scientists for missions up to 30 days.

But Skylab has also convinced us that we we will need Large Space Stations for long missions employing larger and more sophisticated instruments.

But NASA simply will not have the funds in this decade to develop both the Space Shuttle and a Large Space Station. Faced with that choice, we had to give priority to the Shuttle and the smaller Spacelab module.

It is very likely that the Soviet will develop a space station, and they may have it in orbit by the end of this decade. How it will compare in size and versatility and productivity with the manned Spacelab module the Europeans are developing for use with the Space Shuttle remains to be seen.

Conclusion

We should not be dismayed by the fact that cost factors require international cooperation on such large undertakings as scientific bases on the Moon and manned landings on Mars. We should welcome it.

I think such cooperation is an excellent way of helping to assure that we will enter the 21st century as a world at peace.

Will such long-term, large-scale international ventures in space be politically feasible one or two decades from now? I very much hope so. No one can say with certainty, of course. But I can point out that we have taken two important steps in this general direction already:

(1) The scheduling of the Apollo/Soyuz Test Project for 1975 and

(2) The agreement with nine European countries to develop the manned Spacelab module for use with the Space Shuttle.

And by 1991 I anticipate that it will be clear to all that if it is desired to proceed on the major space missions of the future, there is no alternative to international cooperation—no alternative that is both feasible and appropriate in a world at peace.

It is, of course, difficult to plan now for the future beyond 1991. Our *Payload Model* goes about as far as one can go.

For the near future—for the next 18 years—we do have well planned space programs and possibilities which we can afford on a national basis, which do encourage international cooperation in space on a growing scale, and which are the logical next steps to explore and use space.

The many space achievements we have tentatively planned for the next 18 years will enrich our lives, advance our technology, and enhance our security. They will be achievements that we as a people can be very proud of.

MISSING IN ACTION

Mr. McCLURE. Mr. President, the fate of all the 1,300 Americans listed as "missing in action" in Vietnam remains today unresolved. Failure of the North Vietnamese and Viet Cong to comply with specific provisions in the Paris cease-fire agreements for the release of information on the MIA's is of utmost concern to the people of the United States. Congress must not allow the return of our POW's to be half realized and leave those remaining families a "lone voice crying in the wilderness." But rather, we must recognize that voice as an inspiration to this Congress and act in a decisive manner to expedite a prompt and safe accounting for those yet "missing in action."

At the recent mid-winter conference of the American Legion Auxiliary in Boise, Idaho, the question of American MIA's was thoughtfully considered. In support of those families personally involved, the auxiliary joined them in expressing urgent demand for immediate release of the MIA's and pass a resolution to this effect. I am indebted to Mrs. Patty Halstrom of Weiser, Idaho for bringing this to my attention.

I ask unanimous consent that this important resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION—U.S. SERVICEMEN LISTED AS MISSING IN ACTION

Whereas: One year ago, January 27, 1973, there was an agreement by the governments of the United States and North Vietnam to cease firing at the armed forces of each other, and

Whereas: It was agreed that a full accounting would be made of those listed as dead and to return those being held prisoner and that every effort would be made to account for those listed as missing in action, and,

Whereas: Actual events since these agreements were signed has been that the United States government agencies assigned to make an accounting have come to a point of now only giving token lip service to their responsibilities, and,

Whereas: The government of North Vietnam has been reluctant to give assistance toward making an accurate accounting, and in some instances displayed contempt and hostile action, including murder, in retarding the sincere efforts of our inspection teams, which has resulted in a lack of spirit of the inspection teams to carry out their responsibilities, and,

Whereas: Certain steps and measures have been taken to discontinue search efforts and to reclassify status of those listed as missing to a classification of dead, which is considered to be presumptive under the conditions previously mentioned along with the fact that certain U.S. servicemen are known to have survived crash or battle and in fact appeared in interviews while being held captive, now therefore be it

Resolved, by the American Legion Auxiliary, Department of Idaho, in assembly at their annual Mid-Winter Conference in Boise, Idaho January 26, 1974, that,

We urge the United States Senate Foreign Relations Committee to continue to conduct hearings on the fate of those men who are listed as "missing in action", and be it further

Resolved: That Congress use every means at its disposal to make sure that all men listed as "missing in action" be fully accounted for.

FOREIGN MINISTERS CONFERENCE IN MEXICO CITY

Mr. BENTSEN. Mr. President, I commend Secretary Kissinger for the frank and open spirit in which he met with his Latin American colleagues at the Foreign Ministers Conference last week in Mexico City. But I am disappointed that no concrete solutions to the pressing problems of our hemisphere came out of that meeting. I—and many others—were hopeful that some concrete results would be achieved on such important matters as the role of multinational corporations, private foreign investment, civil rights and human liberties, restructuring of the hemisphere's political and economic relations, and the OAS embargo of Cuba. A frank and open dialog, and the promise of more to come, is important but must lead to real accomplishments, and as yet we have seen too little of this. The Secretary made a good start by reaching agreements with Mexico on the salinity of the Colorado River and with Peru on the expropriation of American firms; but it has taken years to accomplish these goals. Much more remains to be done, and I am fearful that it will take years more to resolve the other outstanding issues. It appears once again that decisions on the really difficult problems have been postponed. I repeat, substantive dialog on foreign policy issues is important. But headlines heralding "a new relationship" or "a new dialog" must not mask the lack of any real progress toward resolving the problems.

THE ENERGY CRISIS

Mr. FANNIN. Mr. President, it is time for this Congress to stop trying to fool ourselves and the American people concerning the solution to the energy crisis. The only realistic solution is to allow the prices for various fuels to seek their free market levels which will produce maximum supply.

The so-called windfall profits tax scheme and the irrational oil price rollback plan were subterfuges that would plainly be counterproductive to solution of our problem. We need to increase supply, not mutilate the production and supply system.

The Journal of Commerce ran a very good editorial on Monday. It was captioned, "An Expensive Illusion." The oil price rollback scheme most certainly is "an expensive illusion."

Mr. President, I ask unanimous consent to have this editorial printed in the RECORD for the benefit of my colleagues who are deeply concerned about this issue.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

AN EXPENSIVE ILLUSION

On Occasions too numerous to count of late we have heard such proposals as a rollback of crude oil prices supported with the argument that each would "have consumers" unspecified sums of money usually running well into the hundreds of millions, if not to even more. This is a thought that seems to have gained great popularity on evening TV newscasts. It has gained enough, at least, to merit some comment.

The current proposals of this sort are similar to those put forward last year, mostly in reference to food prices. If meat prices were to be frozen, or if other food prices were frozen or even rolled back, it was said, the producers and distributors would continue to perform their functions, though at reduced profit levels, the assumption being that they would do so because they had no option to do otherwise. The consumer, in the meantime, would be given every bit of protection the government was bound to provide.

The arguments advanced then were just as misleading as those presented so airily today in another context. They are misleading because they assume that the available supply is constant and certain to remain so.

If that had been true with meat last year, then it could be assumed to be equally true of crude oil and petroleum products this year. If all the meat that the American people wanted to buy was flowing freely through the markets then, and if all the oil the nation can usefully absorb were flowing equally freely now, then it wouldn't make much difference to the public as a whole whether the producers and middlemen were forced to make do with reduced profits, even sharply reduced profits or perhaps no profits at all.

But that was not the case then nor is it the case now. The first effect of the meat price freeze was too drive a lot of the quality cuts off the shelves of retailers. The second, which seemed to come as a shock to a good part of the nation, was to force wide cutbacks in cattle production. These cutbacks, made in various ways and for various reasons in different areas, threatened shortages that could not by any manner of means be considered as temporary.

Nor was there anything secretive about them. Anybody who wanted to study the figures could find their meaning plainly stated: no matter how low the price, there was no longer going to be as much meat as there had been.

Those who had taken the trouble to do their homework (and quite a number of congressmen apparently hadn't) could see that with feedgrain prices rising rapidly while a lid was being clamped tightly on retail prices, cattle raisers would only go on raising cattle if the packers and middlemen accepted the entire brunt of the squeeze. But this was not to be.

But even while these warnings were being sounded, by this newspaper among others, the nation's more optimistic folk continued to whistle past the graveyard and to insist, during pauses for breath, that nothing could be inherently wrong about using the powers of a benevolent government to protect the consumers against excessively high food prices.

Well, as it happened the price levels were protected for a while but the consumers were in for a surprise. Much of the food they wanted most wasn't there anymore. The price lists were, but the better cuts were not. There were the usual rumors of hoarding but not much disposition to face the truth. A good deal of meat that otherwise would have been on the shelves wasn't there because it was no longer being produced and distributed.

So where were the savings consumers had been promised? To most families they were measurable. People were simply eating less of what they wanted to eat, once the larder in the deep freeze ran out, and more of what they didn't especially like. Many did save something by this means, but they could have done that anyway if they had been willing to cut their standard of living a notch or two.

With the lessons of the recent past supposedly so fresh in mind, how is it to be assumed that enforced rollbacks in the price of domestic crude oil or of any other fuels or raw materials in short supply are going to produce different results? Would they entice more crude oil out of the ground and into the pipelines? Or would the public again find itself as horrified as it was last year to witness what was happening to the production of meat?

It is unfair for politicians or for anyone else to deliberately encourage expectations that have no hope of being realized. There is no more chance of increasing the oil supply by a rollback now than there was last year of making people happier by freezing certain food prices. This is an illusion too expensive even for the affluent United States.

CHESTER E. MERROW—HE MADE A CONTRIBUTION TO HIS NATION

Mr. McINTYRE. Mr. President, all of us were deeply grieved to hear of the untimely passing of Chester E. Merrow, of Center Ossipee, N.H.

Chester Merrow's death was a great loss to all of us in Congress, to the people of the State of New Hampshire, and to the Nation. It was a great blow to his lovely family.

Chester Merrow started his long and distinguished career as an educator. Following his education at Brewster Free Academy, at Colby College, and at Columbia University he taught science, physics, chemistry, and biology for many years and then, to demonstrate his broad knowledge, he instructed students at Vermont Junior College in political science and history.

In 1943, he was elected for the first time to the U.S. House of Representatives. He had served briefly in the New Hampshire General Court before his election to the U.S. Congress.

For two decades from 1943 to 1963, Chester Merrow was kept in Congress with overwhelming majorities by the people in his district. He served with great distinction as a member of the House Foreign Affairs Committee. He was a delegate to many international conferences on education, culture, and science, representing the United States.

In 1962, Chester Merrow decided not to run for reelection to the House, but to stand as a candidate for the U.S. Senate. He was defeated in the primary, the first political contest he ever lost.

But, Chester Merrow's expertise, his knowledge and his abilities were needed in Washington. He was appointed by President Kennedy as a Special Adviser on Community Relations in the U.S. Department of State. He served in this important position from 1963 until 1968.

In 1970 and 1972, Chester Merrow ran as a Democrat for the House of Representatives. He was defeated both times.

It is obvious from his record and the positions he held that party labels as such were not an obsession with Chester Merrow. He was a man of the people. His appeal was not the fact that he was a Democrat or a Republican. He went before the people on the issues. He tried to represent their viewpoints without regard to whether it was politic or whether it was the proper party position.

Chester Merrow was often labeled a maverick Republican. If he had been elected as a Democrat he probably would have been labeled a maverick in that party also. He was his own man, maybe even a "loner" as an editorial I will insert in the RECORD states.

I was always privileged to call Chester Merrow a friend, even though for many years we were in opposite political parties, and many years ago actually ran against each other for Congress. He beat me rather handily. But we fought our campaign on the issues and not on personalities.

A little bit of goodness was chipped away with the passing of Chester Merrow. He is missed by all who knew him. Some people walk through life quietly, with dignity and strength. He was one of these.

And he made his contribution to all of us.

May I express my sorrow to his lovely wife, Nellie, to his son, Daniel, who is father of Chester's three grandchildren, to Chester's sister, Barbara Currier, and to the rest of his family.

Mr. President, I ask unanimous consent to print in the RECORD a very thoughtful and meaningful editorial from the Portsmouth, N.H., Herald which gives a further view of this remarkable man.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CHESTER MERROW MADE A CONTRIBUTION

Tennyson said many years ago that the "old order changeth, yielding to the new," and, while he didn't have politics in mind, it surely applies to that field of human endeavor.

The passing of Chester E. Merrow from the New Hampshire political scene created only a minor stir. Some years ago, a veteran of 20 years in the U.S. House of Representatives, Merrow elected to go for the Senate. His efforts fell short and Louis C. Wyman succeeded to the Merrow seat in the House.

After that defeat, Merrow left the Republican Party and became active in Democratic affairs. As everyone familiar with The Public Forum knows he was a frequent writer in its columns.

Staff people at The Herald always enjoyed a visit from Merrow. He was a pleasant person, and one thing about him was that he seemed to owe allegiance to no man.

While he was still an orthodox Republican and holding office by the gift of that party, Merrow always seemed to be alone. If there was a public function, for example, such as a Lincoln Day dinner, all the other Republican VIPs would arrive en masse.

Minutes after their arrival, Merrow would be seen strolling in the door by himself. Essentially perhaps the man was a "loner" but even so he was decent, and we liked him.

The imprint he has left on the state's Democratic party won't be heavy in all probability because that party is turning to youth more and more, but he did make a contribution. And heaven only knows, New Hampshire's Democrats could use a lot of those.

BRAZIL

Mr. WEICKER. Mr. President, I ask unanimous consent that the address by the Brazilian Ambassador, the distinguished J. A. de Araujo Castro, before the Conference for Corporate Executives conducted by Johns Hopkins University on January 30, 1974, be printed in the RECORD. Brazil is a great and good friend of our Nation. Her ambassador has spoken truthfully and well.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

BRAZIL AND THE WORLD OF 1974

(By Ambassador J. A. de Araujo Castro)

It is an extremely rewarding experience for me to be here among you today and I wish to express my indebtedness to the International Management and Development Institute for this kind invitation to address you at this luncheon. This is the third time I respond to a friendly gesture from the Institute since I came to Washington and I see that such response has become an interesting and gratifying feature inserted into the routine of my functions as Ambassador of Brazil to the United States of America.

My indebtedness towards the Institute goes beyond this opportunity of contact and exchange with you. It is enhanced by my appreciation and understanding of the relevance and significance of the purposes, scope and high objectives of the "School of Advanced International Studies of the Johns Hopkins University" and of the "International Management and Development Institute", in promoting seminars such as this one now being held. Your idea, as I see it, is to arouse, encourage and develop a better awareness on the part of the leaders of this country, both in the public and in the private sectors, on the realities of other peoples and other nations. I know of no other task of higher and greatest relevance, either to those who listen or to those who are called to set forth their opinions and points of view. And this is precisely the theme of my brief remarks today, namely the necessity of striving for a more thorough international cooperation in the economic field, an effort which will encompass an exchange of information and promotion of a more accurate reciprocal knowledge.

We are living in an extremely fluid and diffuse stage of modern economic history wherein the principles, the norms and the dogmas held sacred for many a decade have suddenly been abandoned and forsaken by the virtue of the emergence of new economic realities, which have been ultimately altered by another set of facts and events which have erupted in the international economic structure.

We might tentatively assert that the present stage of transition started in August 1971, when the inconvertibility of the dollar was established, and when the United States Government adopted some measures protective of its home market, which have substantially altered the terms of trade then prevalent. As a matter of sheer fact, many of us had been for some time quite aware and conscious of the imperfections and relative obsolescence of the trade and monetary system but it took a massive deficit in the US trade balance and a continued drain of dollars to other monetary centers to prompt a definite break with the Bretton Woods system. It is relevant to point out that a protectionist outlook and tangible measures of a protectionist character can be ascribed not only to the steps undertaken in August 1971 but to the very sources and causes of this crisis in the international market with untrammelled competition on the part of other highly industrialized coun-

tries; It was likewise a fact that those American exporters found their penetration into the consumer markets of Western Europe and Japan greatly thwarted to the web of protectionist measures imposed on those markets. And it is very important to point out that the actions and counter-actions lauched in the financial and commercial international field, as resulting from the confrontation between the great trade partners, have come willy-nilly to affect and afflict the so-called developed countries.

Developing countries exporting commodities have to face an elaborate and efficient protectionist machinery in the European Common Market area. This fact, together with a high level of international duties levelled by the EEC countries on tropical products, considerably limits exports from developing nations to the area. American exporters have expressed concern over the Common Agricultural Policy of the EEC, but it is also true that it significantly affects developing countries. On the other hand, the European Common Market is currently extending its geographic boundaries, within Europe as well as towards the Mediterranean and Africa. As new European nations join the Common Market, or as preferential and discriminatory agreements are celebrate with Mediterranean and African countries, the trend towards territorial expansion becomes also a trend towards widening protectionism.

Protectionist trends have also asserted themselves up in the American continent, under various guises and in several different sectors. As I have already mentioned, the announcement on the inconvertibility of the dollar in August '71 was coupled with several measures of a protectionist nature, such as the import surtax of 10 per cent ad valorem, which affected practically all imported goods regardless of their origin, whether they came from industrialized nations, from developing nations, from nations with a surplus in their trade balance with the United States or, as is the case of Brazil, from countries with a negative trade balance with the United States. Although the surtax has been revoked as a result of the Smithsonian Agreement of December 1971, the protectionist trend does not seem to have disappeared from the American political and economic scene. On the contrary, it is felt in the implementation of agreements restricting exports to the American market, in the levelling or the threat of levelling countervailing duties on certain manufactured or semi-manufactured products exported to the United States, in the proposals for protectionist bills in both Houses of Congress, in the adoption of export controls over products especially important to the traditional trade partners of the United States, et cetera.

We must also bear in mind that the protectionist trend has not been limited to the strictly commercial field; it is clearly visible in the financial field, in practically all developed economic centers. It is a well known fact that the very modest United Nations goal of a contribution from industrialized countries equal to 75 per cent of their GNP in financial assistance to developing areas is still a long way short of being fulfilled. Also well known, but seldom heeded, are the repeated pleas made by the Presidents of the World Bank and the Inter-American Bank for no delays or cuts in the contributions of developed countries to those institutions, especially with regard to low interest funds affecting the so-called least developed nations. We all have heard disturbing news that OECD members are considering restrictive measures on the flow of capital in the Eurodollar area, a move which would certainly hinder the possibility of attracting resources in that area. Finally, it is not stimulating to notice the steadfast opposition in some quarters to the idea advanced by the developing countries of establishing some sort of "link" between the creation of a new international monetary standard and the assistance to development.

I have been calling your attention to those several contradictions or obstacles existing in the international commercial and financial scene, because they considerably hinder what should be seen as a priority goal of the international community: the accelerated economic and social development of the underdeveloped world. This would benefit not only those countries and peoples, but the whole community of nations.

It is obviously impossible to discuss the current international economic scene without somehow mentioning the so-called oil crisis, or energy crisis. Indeed, it is now quite clear that the recent events which unfolded in the fields of energy and of the international economy have wrought deep change into the whole international context, with reflections on the entire gamut of international relations. Financial and commercial multilateral negotiations, already in the offing with a view to finding a new global economic order were suddenly reversed and will have somehow to start again from scratch. As a result of the new oil prices, the relationships among the several world economic centers were deeply altered, and it is still too early for any precise evaluation of what the final outcome will be. It is however clear that the new realities of the international oil economy will have profound bearing on all sectors of activity throughout the community of nations, affecting as wide a range of factors as internal price structures, rates of economic growth, transportation costs (both internal and international) and the balance of payments of each individual country.

I will certainly not attempt, nor am I qualified to do so, any thorough analysis of the origin, the present realities or the likely consequences of the world energy crisis. But I am sure it is proper to stress here that although the current rising trend in oil prices was precipitated by the Middle East conflict, it surely was not a consequence of that confrontation. In fact, the oil-producing countries had been trying for some time to reverse the declining trend in oil prices which marked the decade of the sixties. It is important to observe that in the past few years the appreciation of export commodities, whether agricultural or mineral, has been one of the basic claims of developing countries. This has happened not for academic reasons, but because the expansion and valorization of their foreign trade, in raw materials as well as manufactured goods, is a vital element in the promotion of their economic development and of the welfare of their population. In short, it has been a constant aspiration and a feature of the diplomatic activity of developing countries to implement understandings and international conditions which would allow them to increase, in price and in volume, their participation in international trade. I am confident that the negotiations about to start on the energy field may bring about a lasting and equitable agreement. Let us not forget, however, that for the achievement of such an agreement it is imperative that all interested parties, developed and underdeveloped nations, producers and consumers, have a chance to be heard and have their vital interests taken into attentive consideration. It will be a serious mistake to try to establish a new order in this field among a small number of countries and then try to transpose it to the whole international community. Such an agreement would breed within itself a dangerous element of imbalance and disintegration.

Through a process of chain-reaction, the recent Middle East crisis resulted, as we have noted, in a profound change in world relationships. This is true on the political level, as well as in the economic, financial and monetary spheres. The relationships between the two Super-Powers, among the large industrial nations, between the industrialized countries and the developing countries and even among the developing countries themselves have now been profoundly changed. Among developing countries, for instance, it should be noted that they are not affected in any uniform way or with equal intensity by the new realities of world economy and politics. The general lack of interest on the part of industrialized countries for the question of development on a worldwide basis may increase as a result of the crisis, as new arguments and pretexts will undoubtedly be found. Allegations will be made to the effect that the crisis benefits exclusively the countries producing raw materials: the solidarity among those countries is liable to the weakened to the extent that some of their hard-fought achievements in international conferences may well be wiped out. Short-run interests and considerations may cause the industrial nations to concentrate their attention on pressing internal economic problems and force producers of some raw materials to try to maximize their short-term gains, however, ephemeral and precarious that advantage may prove. This two-fold danger, from both sides of the international economic spectrum might jeopardize the still inceptive effort towards the acceptance—in theory as well as in practice—of a concept of Collective Economic Security capable of spelling out a truly universal and collective responsibility for the problem of economic development. Industrialized and developing countries, producers and consumers alike, must strive purposefully together so that the experience gained during the past decade, since UNCTAD I, will not be lost, and so that an overt economic confrontation might be avoided. By the way, such a struggle in the economic field would, if we cannot avert it, be parallel to the unedifying display of power politics in the specific field of international political relations. Any efforts towards a new international order must be guided by the purposes and principles of the Charter of the United Nations, which rejects the use of force—and I would like to give the word force its broadest connotation—for the achievement of objectives in the international field.

How will the current crisis affect Latin America in 1974? I would like to say first that Latin American countries must not remain absent or aloof from the discussion and negotiation of matters that so directly and intensely affect their national interests. Brazil has repeatedly decried the tendency to limit debate on the great political and economic problems of the world to a dwindling circle of Great Powers, which became by default the arbiters of the aspirations and interests of mankind as a result of the omission of the medium and small countries. Because of its juridical tradition, its historical experience and even its increasing economic importance, arising from the gradual materialization of its potentialities, Latin America cannot remain excluded from this process of deliberation and decision. Conversely, the Latin America nations cannot shirk this fundamental responsibility at the outset of the year 1974, at the start of the transition towards a new world order. The Latin American countries cannot allow themselves to elude History nor do they wish to elude themselves; they have no higher aspiration than to participate in today's world, with all its great problems and its great hopes. The Latin American countires are increasingly convinced of the need to affirm a principle of collective economic security which will assure to all peoples not only the right to survival but also the right to life conditions of security and development.

I beg of you to forgive me for burdening you with these considerations, probably in-

appropriate for after-lunch relaxation, but I have often wondered that it may not be useless to meditate on the need for further dialogue, better understanding, deeper awareness among all those who have a responsibility in international matters. For what you are and for what you represent, you are certainly at the forefront of this category of people.

I wish to close these remarks on a note of hope and conviction. I am indeed convinced that despite the hardships and obstacles, we will overcome this period of transition in the economic history of the world to arrive at a new order which will ensure progress and development for all nations. As far as Brazil is concerned, I can assure you that all necessary measures will be taken, all necessary conditions shall be created, so as to ensure the continuation of our economic development, through the interaction of internal efforts with international cooperation, both public and private.

Today, in Brazil, the only national obsession is the obsession with the development. We are determined to follow on our way towards progress, despite occasional difficulties and setbacks, for we cannot renounce our future.

We consider the development of Brazil as an integral part of the development of Latin America, to which we have always belonged both geographically and emotionally. Our action does not and will not follow any dogmas or preconceived ideas, and we will always be willing to incorporate our effort into the effort of other peoples and enrich our experience with the experience of those willing to work with us. The development of Brazil is not only a great national project, but a broad human experience, integrated in the effort of the whole Mankind, unto which Brazil intends to remain faithful and committed.

RULES OF THE COMMITTEE ON FOREIGN RELATIONS AND THE SUBCOMMITTEE ON MULTINATIONAL CORPORATIONS

Mr. SPARKMAN. Mr. President, in accordance with the provisions of section 133B of the Legislative Reorganization Act of 1946, as amended, I submit for publication in the RECORD the rules of the Committee on Foreign Relations and its Subcommittee on Multinational Corporations.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF THE COMMITTEE ON FOREIGN RELATIONS

COMMITTEE AND SUBCOMMITTEE MEMBERS

1. The regular meeting day of the Committee on Foreign Relations for the transaction of Committee business shall be on Tuesday of each week, unless otherwise directed by the Chairman.

2. Six members shall constitute a quorum for the purpose of transacting Committee business.

3. Proxy voting will be permitted on all matters, except that no measure or recommendation shall be reported unless a majority of the Committee were actually present.

4. The Chairman of the Committee on Foreign Relations, or the chairman of any subcommittee thereof, is authorized to fix the number of members who shall constitute a quorum for the purpose of taking testimony.

5. Except when funds have been specifically made available by the Senate for a subcommittee purpose, no subcommittee of the Committee on Foreign Relations shall hold hearings involving reporting expenses without prior approval of the chairman of the full Committee or by decision of the full Committee.

6. Unless otherwise authorized by law or Senate resolution, subcommittee shall be appointed each Congress by the Chairman. They shall be of three general types: consultative, "study" or "oversight," and ad hoc.

Consultative subcommittees are created primarily for purposes of consultation and not for the consideration of legislation.

Study or Oversight subcommittees are created to deal with specific problem areas which may or may not require legislative action originating with the Committee.

Ad hoc subcommittees are created to act on behalf of the full Committee on specific legislation or treaties.

COMMITTEE TRAVEL

No member of the Committe on Foreign Relations or staff shall travel abroad on Committee business unless specifically authorized by the Chairman, who is required by law to approve vouchers and report expenditures of foreign currencies, and the ranking minority member. Requests for authorization of such travel shall state the purpose and when completed, a full report shall be filed with the Committee.

NOMINATIONS

1. Unless otherwise directed by the Chairman, the Committee on Foreign Relations shall not consider any nomination until six days after it has been formally submitted to the Senate.

2. Nominees for any post who are invited to appear before the Committee shall be heard in public session, unless a majority of the Committee decrees otherwise.

3. No nomination shall be reported to the Senate unless the nominee has been accorded security clearance on the basis of a full field investigation by the Federal Bureau of Investigation, and, in appropriate cases, has filed a confidential financial statement with the Committee.

TRANSCRIPTS

1. The Committee on Foreign Relations shall keep verbatim transcript of all Committee and subcommittee (except consultative subcommittees) meetings and such transcripts shall remain in the custody of the full Committee, unless a majority of the Committee decides otherwise.

WITNESSES

1. The Committee on Foreign Relations will consider requests to testify on any matter or measure pending before the Committee.

2. If the Chairman so determines, the oral presentation of witnesses shall be limited to ten minutes. However, written statements of reasonable length may be submitted by witnesses and other interested persons who are unable to testify in person.

TRANSCRIPT REGULATIONS

1. Maintenance and security of classified transcripts.

a. The chief clerk of the Committee shall have responsibility for the maintenance and security of the classified transcripts.

b. A record shall be maintained of each use of the classified transcripts.

c. Classified transcripts shall be kept in locked combination safes in the Committee offices except when in active use by authorized persons. They must never be left unattended and must be returned to the chief clerk promptly when no longer needed.

d. Classified transcripts shall be permitted to leave the Committee offices only in the possession of authorized persons. Delivery and return shall be made only by authorized persons. They shall not be permitted to leave the city or the country, unless adequate assurances are made to the Chairman for their security.

e. Transcripts classified secret or higher shall not be permitted to leave the Committee offices.

f. Extreme care should be exercised to avoid taking notes or quotes from classified transcripts. Their contents must not be divulged to any unauthorized person.

2. Persons authorized to use classified transcripts.

a. Members and staff of the Committee, in the committee rooms, or, by permission of the chairman, in their offices.

b. Senators not members of the Committee, in the Committee's Capitol offices, by permission of the Chairman.

c. Members of the executive departments in the departments, or, in the Committee's Capitol office, by permission of the Chairman.

3. Declassification of executive transcripts and other executive records.

Executive transcripts and other executive records of the Committee shall be released to the National Archives and Records Service for unclassified use in accordance with the policies of that Agency: *Provided*, That no such transcripts or other executive records shall be declassified within a period of 12 years except by majority vote of the Committee and with the permission of surviving members of the Committee at the time such transcripts or records were made and with the permission of the Executive Department, if any, concerned; and *Provided further*, That after 12 years from the date such transcripts or records were made, they shall be declassified unless the Committee by majority vote shall decide otherwise.

REGULATIONS FOR THE USE OF CLASSIFIED MATERIAL (OTHER THAN TRANSCRIPTS)

Receipt and distribution of classified material

1. All classified material received or originated by the Committee shall be keyed in at the Committee's offices in the Dirksen Senate Office Building, and except for material classified as "Top Secret" shall be filed in the Dirksen Senate Building offices for Committee use and safekeeping.

2. Each such piece of classified material received or originated shall be card indexed and serially numbered, and where requiring onward distribution shall be distributed by means of an attached indexed form approved by the Chairman. If such material is to be distributed outside the Committee offices, it shall, in addition to the attached form, be accompanied also by an approved signature sheet to show onward receipt.

3. Distribution of classified material among offices shall be by Committee Members or staff only. All classified material sent to Members' offices, and that distributed within the working offices of the Committee, shall be returned to Room 4229, Dirksen Senate Office Building. No classified material is to be removed from the offices of the Members or of the Committee without permission of the Chairman. Such classified material will be afforded safe handling and safe storage at all times.

4. Material classified "Top Secret," after being indexed and numbered, shall be sent to the Committee's Capitol offices for use by the Members and staff in those offices only.

5. The Chief of Staff is authorized to make such staff regulations as may be necessary to carry out the provisions of these regulations.

STAFF REGULATIONS

The Committee recommends that the following concepts serve to guide the staff in its activities:

1. The staff works for the Committee as a whole, under the general supervision of the Chairman of the Committee, and the immediate direction of the Chief of Staff.

2. Any Member of the Committee should feel free to call upon the staff at any time for

assistance in connection with Committee business. Members of the Senate not members of the Committee who call upon the staff for assistance from time to time should be given assistance subject to the overriding responsibility of the staff to the Committee.

3. The staff's—as, indeed, the Committee's—primary responsibility is with respect to bills, resolutions, treaties and nominations.

4. The staff and the Committee also have a responsibility under Section 136 of the Legislative Reorganization Act which provides that ". . . each standing Committee . . . shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of that committee." In the case of foreign relations, there is an additional responsibility deriving from the advice and consent clause of the Constitution. By the same token there are limitations deriving from the President's special constitutional position in regard to foreign relations.

5. In addition to carrying out assignments from the Committee and its individual Members, the staff should feel free to originate suggestions for Committee or Subcommittee consideration, making it clear in every case that the decision lies with the Committee or Subcommittee concerned. The staff should also be free to make suggestions to individual Members regarding matters of special interest to such Members.

It is part of the staff's duty to keep itself as well informed as possible in regard to developments affecting foreign relations and in regard to the administration of foreign programs of the United States. Significant trends or developments which might otherwise escape notice should be called to the attention of the Committee, or of individual Senators with particular interests.

6. In carrying out the responsibilities in paragraph 5, the staff should bear in mind the workload of Senators and attempt not to deal in trivia but to limit itself to broad questions of basic policy or specific matters which point up a question of basic policy.

7. The staff should pay due regard to the constitutional separation of powers between the Senate and the executive branch. It should, therefore, try to help the Committee bring to bear an independent, objective, judgment of proposals to the executive branch and when appropriate to originate sound proposals of its own. At the same time, the staff must avoid impinging upon the constitutional prerogatives of the executive branch in the day-to-day conduct of foreign affairs.

8. In those instances when Committee action requires the expression of minority views, the staff shall assist the minority as fully as the majority to the end that all points of view may be fully considered by Members of the Committee and of the Senate. The staff must bear in mind that under our constitutional system it is the responsibility of the elected Members of the Senate to determine legislative issues in the light of as full and fair a presentation of the facts as the staff may be able to obtain.

9. The staff should regard its relationship to the Committee as a privileged one, in the nature of the relationship of a lawyer to a client. In order to protect this relationship and the mutual confidence which must prevail if the Committee-staff relationship is to be a satisfactory and fruitful one, the following criteria are suggested:

a. The staff must be completely nonpartisan and responsible only to the Committee. Staff members should be hired and fired by the Committee solely on the basis of merit and without regard to political considerations.

b. Members of the staff must not be identified with any special interest group in the field of foreign relations or allow their names to be used by any such group.

c. Members of the staff must not accept public speaking engagements or write for publication in the field of foreign relations without specific advance permission from the Chief of Staff, or in his case, from the Chairman and the ranking minority Member. In any event, such public statements should avoid the expression of personal views and should not contain predictions of future, or interpretations of past, Committee action.

d. The staff must in no circumstances discuss with anyone the proceedings of the Committee in executive session or conversations with individual Senators without specific advance permission from the Committee or the Senator concerned.

PROVISIONS OF LEGISLATIVE REORGANIZATION ACT

In addition to the foregoing, the Committee on Foreign Relations is governed by the standing rules of the Senate and the rules and procedures set forth in the Legislative Reorganization Act of 1946, as amended.

RULES OF PROCEDURE OF THE SUBCOMMITTEE ON MULTINATIONAL CORPORATIONS

(Adopted by the subcommittee, Jan. 29, 1973)

1. No public hearing, public or executive, connected with an investigation shall be held without the approval of a majority of the subcommittee. The ranking minority member shall be kept fully informed on investigations and hearings. Members of the subcommittee shall, on request, be briefed by the staff with respect to such investigations. Preliminary inquiries may be initiated by the subcommittee staff with the approval of the chairman of the subcommittee and the ranking minority member.

2. Subpenas for the attendance of witnesses and the production of documents shall be issued by the subcommittee chairman with the approval of the ranking minority member. Other members of the subcommittee will be advised in advance (majority members by the chairman, minority members by the ranking minority member) of the intention to issue subpenas. If a member files a written objection with the chairman in 2 working days the matter shall be decided by a majority vote of the subcommittee.

3. The chairman shall have the authority to call meetings of the subcommittee. This authority may be delegated by the chairman to any other member of the subcommittee when necessary.

4. For public and executive sessions one member of the subcommittee shall constitute a quorum for the administering of oaths and the taking of testimony.

5. All witnesses at public or executive hearings who testify to matters of fact shall be sworn.

6. Counsel retained by witnesses shall be permitted to be present during the testimony of the witnesses at any public or executive hearings and to advise the witnesses of their rights.

7. Witnesses who wish to read a prepared statement in executive or public hearings shall file 20 copies of the statement with the subcommittee at least 24 hours in advance of the hearing at which the statement is to be presented unless the chairman and the ranking minority member waive this requirement.

8. A stenographic record of a witness' testimony whether in public or executive session shall be made available for inspection by the witness and his counsel under committee supervision.

9. Interrogation of witnesses at subcommittee hearings shall be conducted on behalf of the subcommittee by members and authorized subcommittee staff personnel only.

10. Any person whose name is mentioned in public hearings or who is specifically identified and who believes that testimony presented at a public hearing or comment made by a subcommittee member or counsel tends to defame him or otherwise adversely affect his reputation may appear before the subcommittee to testify in his own behalf or file a sworn statement of facts relevant to the testimony or other evidence or comment complained of.

11. Testimony taken in executive session shall be kept secret and will not be released without approval of the majority of the subcommittee.

12. Any corporation which has delivered documents to the subcommittee by request or under subpena and which wishes to have the documents treated in a confidential manner shall within 2 weeks after the documents are submitted provide the subcommittee with a written request that the documents be kept confidential including a detailed statement of the reasons and the possible damage which may result from disclosure. The chairman with the approval of the ranking minority member shall be empowered to schedule an oral presentation of the request for confidentiality in a duly noticed executive session. Following full presentation the matter shall be decided by a majority vote of the subcommittee which shall be recorded and made public.

13. Nothing in the foregoing rules shall be construed as contradicting or superseding the rules of the full Committee on Foreign Relations.

TESTIMONY BY DR. MALCOLM R. CURRIE BEFORE SENATE ARMED SERVICES COMMITTEE

Mr. THURMOND. Mr. President, Senator JOHN C. STENNIS, chairman of the Senate Armed Services Committee, issued a statement yesterday in reference to the testimony before our committee of Dr. Malcolm R. Currie, Director of Defense Research and Technology.

Dr. Currie demonstrated a firm grasp on the R. & D. budget in his testimony and I join with Senator STENNIS in his remarks on this occasion.

Mr. President, I ask unanimous consent that the statement by Senator STENNIS be printed in the RECORD at the conclusion of my remarks.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR JOHN C. STENNIS

Dr. Malcolm R. Currie, Director of Defense Research and Engineering testified before the Senate Armed Services Committee today. His testimony was most impressive.

Dr. Currie expressed confidence in the present military potential of the United States. He said he is concerned about the trend of the military preparedness of the U.S., as against the Soviet Union, in the future years, including the trend of spending for research and development.

I was especially interested in Dr. Currie's comments on lessons learned by the United States from the recent fighting in the Middle East. I questioned him on this portion of his testimony.

He testified that the Arabs scored important successes—like the rapid crossing of the Suez Canal—by using modern weapons and equipment developed by the Soviets.

On the other hand, Dr. Currie said the Middle East experience also shows that we have been on the right track in our own conventional weapons programs.

Dr. Currie also cautioned that the circumstances which would be encountered in any NATO war would be very different from those in the Middle East. Such factors as terrain and weather, he said, would affect the effectiveness of U.S. and Soviet weapons.

In that connection, Dr. Currie testified that the U.S. arsenal of weapons must look to different kinds of fighting under a wide variety of conditions.

An unclassified version of Dr. Currie's prepared statement is being made available in the Press Galleries.

THE GENOCIDE CONVENTION AND FREE SPEECH

Mr. PROXMIRE. Mr. President, article III of the International Genocide Convention has become a point of controversy in the move toward ratification. Article III includes a proviso that acts of "direct and public incitement to commit genocide" bring mandatory punishment.

Critics of the convention argue that such an agreement by the United States would result in an abridgement of the right to free speech, the cornerstone of the Bill of Rights. Since the days of Oliver Wendell Holmes and the "clear and present danger" doctrine, the question of incitement and unlawful expression, has been heatedly debated by constitutional experts. As a result, a detailed code of legal interpretations has developed to protect both the individual and society.

The question arises as to whether or not American ratification of the Genocide Convention would violate that code and thus be unconstitutional. If the treaty was contradictory, then of course ratification would be impossible. I do not advocate that we pass a treaty that would conflict with the highest law of the land. But as I have mentioned on many occasions, no conflict exists. For if we replace the word "genocide" with murder, or any other crime, it becomes apparent that incitement toward criminal action is already illegal and not protected by the first amendment.

The Bill of Rights was designed to protect the individual from the whims of a changing society, but it was also constructed to protect society from the malice of individuals. The Genocide Convention's ban against incitement to commit genocide represents a necessary safeguard for society without violating the right to lawful free speech.

I again ask the Senate to ratify the International Convention on the Prevention and Punishment of the Crime of Genocide.

INDEPENDENCE OF LITHUANIA

Mr. TAFT. Mr. President, I should like to take this opportunity to honor those who died for Lithuanian freedom and request unanimous consent that a resolution adopted by the Lithuanian Americans on the 56th anniversary of the restoration of the independence of Lithuania, be printed in the RECORD. This resolution echoes my sentiments and hopefully, the sentiments of all of my colleagues who treasure freedom above all else.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

To repeatedly condemn the forceful occupation of Lithuania by the Soviet Union, and the continuing physicial, religious and cultural suppression of the Lithuanian people by the Soviets, all of which is the direct consequence of secret Soviet pacts with the former Hitler's regime; and

To alarm all the free peoples of the Soviet genocidal actions by settlement of Russian and other colonists on Lithuanian soil with the intent to alter the ethnic character of Lithuania's population, and also the recently intensified anti-religious activities, seeking to destroy all churches; and

To recall the sad fate of Simas Kudirka, the many priests and thousands of Lithuanian citizens in the forced labor camps in Siberia.

Now therefore, be it resolved, that:

1. We repeat our demands for the complete withdrawal of Soviet armed forces and all of their agents, thus enabling the Lithuanians to govern themselves.

2. We express our gratitude to the Administration and the Congress of the United States for the refusal to recognize the seizure of Lithuania by the Soviet and for the moral support for the Lithuanian cause, and also request that our Administration modify its present foreign policy by seeking freedom for Lithuania and the other Soviet enslaved nations.

3. We urge our Administration to direct the attention of the world opinion on behalf of the restoration of human rights in Lithuania and to protest such frequent violations by the Soviets.

4. We also urge our Administration to withhold any further aid to the Soviet Union until it releases Simas Kudirka and the countless numbers of other prisoners.

And finally, be it resolved to forward copies of this resolution to the President of the United States, the Secretary of State, to all Members of the U.S. Senate and the House of Representatives from Ohio and to the news media.

A SHIP FOR FERTILIZER

Mr. McCLURE. Mr. President, I have been informed that a possible answer exists for the critical fertilizer shortage facing farmers in the Pacific Northwest. A representative of the Matson Lines called my office to say that one of their ships, the SS *Kopaa*, is now available for shipping anhydrous ammonia from Alaska to our west coast. This is indeed welcome news, if true, not only for the farmers of Idaho and other food-producing States, but also for the housewives of America.

In addition, the shipowners' representative stated that the SS *Kopaa* had previously made this type of shipments and was capable of transporting almost 20,000 tons of fertilizer. It is my understanding that negotiations have begun between the fertilizer producer and the shipping line, and I hope that the promise may be realized and relief for the farmers will be provided shortly.

The bill which I have introduced, and in which I have been joined by my colleagues from Oregon, specifically provides that a temporary suspension of existing legislation can be granted only if domestic shipping is not reasonably available. I am extremely hopeful that an American ship has been located, and I will be most interested in the progress of arrangements for transporting this vitally needed agricultural commodity to the farmers of the United States.

Mr. President, I ask unanimous consent that a recent Department of Agriculture announcement concerning this problem, together with a description of the shortage from the Idaho Statesman newspaper, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FARM FUEL AND FERTILIZER SITUATION SOMEWHAT TIGHTER

WASHINGTON, February 25.—A further tightening of farm fuel and fertilizer supplies during the past week was reported today by Nicholas H. Smith, Director of Energy Office for the U.S. Department of Agriculture (USDA). He described the situation as "somewhat tighter" for the second consecutive week.

Reports coming from state and county offices of the Agricultural Stabilization and Conservation Service (ASCS) show the number of states reporting adequate supplies of gasoline for agriculture dropped from 16 to 14, Mr. Smith said. He pointed out that 34 states are reporting problems and one state, Maryland, reported virtually no gasoline supplies were available. Diesel fuel supplies were reported tight to very tight in 22 states, two more than the previous week.

An additional state reported tight supplies of LP gas last week, bringing the total number reporting supply problems to eight. Natural gas supplies were reported tight in three states.

Mr. Smith added that reports from ASCS offices continue to show fertilizer shortages, with nitrogen shortages most severe.

Nitrogen is short in 40 states and tight in five. Mixed fertilizer is short in 29 states and tight in 15. Phosphate and potash supplies are up somewhat from two weeks ago, with phosphate still short in 30 states and potash in 24.

Mr. Smith said the tight situation has caused some delays in field work and other farming operations and has also caused some delays in the movement of grain to livestock feeders and terminal markets.

[From the (Boise) Idaho Statesman, Jan. 23, 1974]

FERTILIZER CRISIS FEARED WORSE THAN ANTICIPATED

(By John Kuglin)

SPOKANE.—The Washington Wheat Commission was told Tuesday that a fertilizer shortage in the Pacific Northwest will be worse than previously anticipated.

Jerry Sheffels of Wilbur, president of the Washington Association of Wheat Growers, told commissioners meeting here that "We're faced with a real severe shortage."

Sheffels said that the region's shortage of anhydrous ammonia, previously pegged at 30,000 to 50,000 tons this year, will probably reach 50,000 to 100,000 tons.

Anhydrous ammonia is the base from which most commercial fertilizers are produced. Three pounds of nitrogen derived from anhydrous ammonia equals one bushel of wheat, he said.

Sheffels said the Midwest, previously a source of anhydrous ammonia for the Pacific Northwest, will not be exporting the fertilizer base this year because of expanded corn production.

A Canadian plant which used to export about 250 tons of the chemical a day will keep its production in Canada and a plant in Portland, Ore., of the same capacity, is now selling its entire production to the plastics industry, the WAWG president said.

Sheffels said the shortage will definitely ease by mid-1975 after a specially equipped barge is constructed in a Seattle shipyard to move anhydrous ammonia from a plant on Alaska's Kenai Peninsula to Pacific Coast ports.

RULES OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE

Mr. WILLIAMS. Mr. President, in accordance with section 133B of the Legislative Reorganization Act of 1946, as amended, I send to the desk a copy of the rules of the Committee on Labor and Public Welfare, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE

(As amended, Feb. 7, 1973)

Rule 1. Unless the Senate is meeting at the time, or it is otherwise ordered, the Committee shall meet regularly at 10:30 a.m. on the fourth Thursday of each month in Room 4232, New Senate Office Building. The Chairman may, upon proper notice, call such additional meetings as he may deem necessary.

Rule 2. The Chairman of the Committee or of a subcommittee, or if the Chairman is not present, the ranking Majority member present, shall preside at all meetings.

Rule 3. Meetings of the Committee or a subcommittee shall be open to the public, except executive sessions for the consideration of bills or resolutions, or for voting, or when the Committee or subcommittee by majority vote of those present orders an executive session.

Rule 4. (a) Subject to paragraphs (b) and (c), one-third of the membership of the Committee or a subcommittee, actually present, shall constitute a quorum for the purpose of transacting business. Any quorum of the Committee or a subcommittee which is composed of less than a majority of the members of the Committee or subcommittee shall include at least one member of the Majority and one member of the Minority.

(b) No measure or matter shall be ordered reported from the Committee unless a majority of the Committee is actually present at the time such action is taken.

(c) A quorum as defined in paragraph (a) will be sufficient for ordering reported a measure or matter from a subcommittee; provided, that if any member present objects to so proceeding, the measure or matter shall not be ordered reported at such meeting unless a majority of the subcommittee is actually present at the time such action is taken. If, at any subcommittee meeting, a measure or matter fails to be ordered reported because of an objection to taking such action without a majority of the subcommittee actually present, the chairman of the subcommittee may, by giving notice of at least two calendar days during which the Senate is in session, call a subsequent meeting for the purpose of reporting such measure or matter, and at such subsequent meeting the subcommittee may proceed on the basis of a quorum as defined in paragraph (a).

Rule 5. With the approval of the Chairman of the Committee or subcommittee, one member thereof may conduct public hearings, other than taking sworn testimony.

Rule 6. Proxy voting shall be allowed on all measures and matters before the Committee or a subcommittee if the absent member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. While proxies may be voted on a motion to report a measure or matter from the Committee, such a motion shall also require the concurrence of a majority of the members who are actually present at the time such action is taken.

Rule 7. There shall be kept a complete record of all Committee or subcommittee action. Such records shall contain the vote cast by each member of the Committee or subcommittee on any question on which a "yea and nay" vote is demanded, and shall be available for inspection by any Committee member. The Clerk of the Committee, or his assistant, shall act as recording secretary of all proceedings before the Committee or a subcommittee.

Rule 8. The Committee, and each subcommittee, shall undertake, consistent with the provisions of section 133A of the Legislative Reorganization Act of 1946, as amended, to issue public announcement of any hearing it intends to hold at least one week prior to the commencement of such hearing.

Rule 9. The Committee or a subcommittee shall, so far as practicable, require all witnesses heard before it to file written statements of their proposed testimony at least 24 hours before a hearing, unless the Chairman and the ranking Minority member determine that there is good cause for failure to so file, and to limit their oral presentation to brief summaries of their arguments. The presiding officer at any hearing is authorized to limit the time of each witness appearing before the Committee or a subcommittee. The Committee or a subcommittee shall, as far as practicable, utilize testimony previously taken on bills and measures similar to those before it for consideration.

Rule 10. Should a subcommittee fail to report back to the full Committee on any measure within a reasonable time, the Chairman may withdraw the measure from such subcommittee and report that fact to the full Committee for further disposition.

Rule 11. No subcommittee may schedule a meeting or hearing at a time designated for a hearing or meeting of the full Committee. No more than one subcommittee executive meeting may be held at the same time.

Rule 12. It shall be the duty of the Chairman in accordance with section 133(c) of the Legislative Reorganization Act of 1946, as amended, to report or cause to be reported to the Senate, any measure or recommendation approved by the Committee and to take or cause to be taken, necessary steps to bring the matter to a vote in the Senate.

Rule 13. No person other than members of the Committee, members of the staff of the Committee, or designated assistants to members of the Committee, shall be permitted to attend the executive sessions of the Committee or a subcommittee, except by special dispensation of the Committee or subcommittee, or the Chairman thereof.

Rule 14. The Chairman of the Committee or a subcommittee shall be empowered to adjourn any meeting of the Committee or a subcommittee if a quorum is not present within fifteen minutes of the time scheduled for such meeting.

Rule 15. Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or a subcommittee for final consideration, the Clerk shall place before each member of the Committee or subcommittee a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added.

Rule 16. An appropriate opportunity shall be given the Minority to examine the proposed text of Committee reports prior to their filing or publication. In the event there are Minority or Individual views, an appropriate opportunity shall be given the Majority to examine the proposed text prior to filing or publication.

Rule 17. Investigation Procedures.

a. The Committee, or any subcommittee, may issue subpoenas, or hold hearings to take sworn testimony or hear subpoenaed witnesses, only if such investigative activity has been authorized by majority vote of the Committee.

b. For the purpose of holding a hearing to take sworn testimony or hear subpoenaed witnesses, three members of the Committee or subcommittee shall constitute a quorum: Provided, however, that with the concurrence of the Chairman and ranking Minority member of the Committee or subcommittee, a single member may hear subpoenaed witnesses or take sworn testimony.

c. The Committee may, by majority vote, delegate the authority to issue subpoenas to the Chairman of the Committee or a subcommittee, or to any member designated by such Chairman. Prior to the issuance of each subpoena, the ranking minority member of the Committee or subcommittee, and any other member so requesting, shall be notified regarding the identity of the person to whom it will be issued and the nature of the information sought and its relationship to the authorized investigative activity, except where the Chairman of the Committee or subcommittee, in consultation with the ranking minority member, determines that such notice would unduly impede the investigation. All information obtained pursuant to such investigative activity shall be made available as promptly as possible to each member of the Committee requesting same, or to any assistant to a member of the Committee designated by such member in writing, but the use of any such information is subject to restrictions imposed by the Rules of the Senate. Such information, to the extent that it is relevant to the investigation, shall, if requested by a member, be summarized in writing as soon as practicable. Upon the request of any member, the Chairman of the Committee or subcommittee shall call an executive session to discuss such investigative activity or the issuance of any subpoena in connection therewith.

d. Any witness summoned to testify at a hearing, or any witness giving sworn testimony, may be accompanied by counsel of his own choosing who shall be permitted, while the witness is testifying, to advise him of his legal rights.

e. No confidential testimony taken or confidential material presented in an executive hearing, or any report of the proceedings of such an executive hearing, shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the members of the Committee or subcommittee.

Rule 18. Subject to statutory requirements imposed on the Committee with respect to procedure, the rules of the Committee may be changed, modified, amended or suspended at any time, provided, however, that not less than a majority of the entire membership so determine at a regular meeting with due notice, or at a meeting specifically called for that purpose.

Rule 19. In addition to the foregoing, the proceedings of the Committee shall be governed by the Standing Rules of the Senate and the provisions of the Legislative Reorganization Act of 1946, as amended.

THE ENERGY CRISIS IN MARYLAND

Mr. BEALL. Mr. President, on December 27, 1973, my distinguished colleague from Maryland (Mr. MATHIAS), and I held hearings in Baltimore to determine the impact of the energy crisis on Maryland citizens. Representatives from all sectors of our State's economy testified, and provided us with a great deal of information as to how fuel shortages are affecting the residents of my State.

Since obviously the energy crisis is not limited to Maryland, I would like to bring some of the valuable testimony we heard to the attention of my colleagues. There-

fore, I ask unanimous consent that the statements of Capt. Harry B. Campbell, president of the Maryland Charter Boat Association; Mr. Lester L. Belcher, president of the Maryland Waterman's Association; Mr. Lawrason Riggs, Jr., president of the Oil Heat Association of Maryland; Mr. Alexander H. Russell, president of the Burns & Russell Co.; and Mr. W. F. Holin, of the Maryland Chamber of Commerce be printed in the RECORD for the benefit of the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARYLAND CHARTER BOAT ASSOCIATION,
Baltimore, Md.

Senator J. GLENN BEALL, Jr.

DEAR SENATOR: My name is Captain Ed Darwin. I am a charter boat captain speaking on behalf of the Maryland Charter Boat Association. There are approximately 325 charter fishing boats that carry from six to fifty passengers operating from ports on the entire Chesapeake Bay. Our principal income is derived by offering our services to local and visiting sportfishermen from mid-April until late February. The dates differ in each Bay area.

The captains have invested large sums of money in their boats and equipment. This constitutes a "life time" savings to many. Most of us have no other trade or occupation. These men could lose their boats, homes and other assets unless they are able to work.

There are related industries and areas that will be hurt immeasurably if we are forced to keep our crafts moored. The economy of fishing centers such as Rock Hall, Tilghman Island, Chesapeake Beach, Annapolis, Solomons Island, Kentmoor and many others depends on the charter boats that operate from these areas. The bait harvesters and sellers market will be reduced. Fishing tackle and marine equipment industries, hotels, motels and restaurants will suffer as will state and federal tax revenues. We hope that the policy makers are aware of these and other ramifications if we are forced to close our industry due to the lack of fuel.

It is a fact that we are considered as a recreation. We do provide a participating type of pleasure for the sportsman but it is our livelihood. Since this is our livelihood, we feel that this should be the primary consideration for fuel allocation.

The type of fishing we do is unique to the Chesapeake Bay and should not be judged as part of the ocean fisheries. We are not forced to run for hours to get to our fishing grounds. Ocean charter boats burn large volumes of fuel. We require only from fifteen to fifty gallons per day per boat.

We are aware that a critical fuel shortage has occurred and are willing to participate in any way to help alleviate this crisis. We hope that the answer to the national crisis is not to create a personal crisis where our industry is made to bear an unjust burden. The charter boat captains would like to continue as an asset to the state and not become a liability where state aid or welfare is necessary. Our industry is directly dependent on the amount of fuel we obtain. Therefore, we wish to be considered for a priority fuel allocation.

The Maryland Charter Boat Association is grateful to this committee for the opportunity to speak. We would appreciate notice of future hearings so that we can attend and explain our position. We are willing to do anything or go anywhere, if it is necessary, to continue our existence.

Sincerely,

CAPT. EDWIN M. DARWIN.

TESTIMONY BY LESTER J. BELCHER, JR.

DECEMBER 26, 1973.

Gentlemen: I am Lester J. Belcher, Jr., President of the Maryland Watermen's Association.

At this moment, the seafood industry of Maryland is in proximate danger of being snuffed out at its source—the working waterman—for lack of fuel. Many of the waterman's usual fuel sources are already desperately short, and getting those sources supplied is posing a serious and frustrating problem for everyone concerned. user, source, supplier, and allocation official alike.

The problem stems from five key facts.

First, the major oil companies, in compliance with the national directives, have cut back across-the-board. But in the process of obeying the letter, they have ignored the spirit. They have adopted a policy of supplying their own brand-name service stations first, and letting all others take whatever may be left.

Second, although diesel fuel is now under a mandatory allocation plan, gasoline is not.

Third, most Maryland watermen are Chesapeake Bay watermen, and the preponderant majority of them do not use diesel engines in their boats. They use gasoline engines, mostly converted auto motors.

Fourth, although commercial fishermen have a top priority for fuel under both the mandatory and so-called "voluntary" systems, enforcing the sense and spirit of the first has been frustrating, and enforcing the second impossible.

Fifth, in order to present a cogent and forceful argument so that allocation officials can clearly understand the true need, and urgency of our watermen's situation and act to correct it, we must first know precisely what we're talking about.

Unfortunately, nobody—absolutely nobody, at any level, Federal, State, local, or amongst watermen themselves—has any accurate comprehensive data of any sort on watermen in Maryland, much less data appropriate to calculating the management of fuel.

Let me repeat that in plain terms: I am saying that nobody knows what they're talking about.

Now, that's pretty hard language, and it's going to be loudly contested by certain bureaucrats who have spent lifetimes developing statistics. However, whenever pinned down to providing specifics, it quickly becomes apparent that virtually all existing data—when there is any—is in fact based chiefly upon a mixture of bureaucratic experience, hopeful judgment, and educated guesswork, rather than hard and direct research at source. And what little information is available lacks the very data lines that might make it at all useful for most purposes.

To begin with, there are about 28,000 commercial fishing licenses issued each year in Maryland, and these are held by some 21,000 individuals.

Some licenses, such as gill net licenses, are issued in 100-yard units. Clamming licenses are issued by the boat. Oyster licenses are issued by the person, and there are four different kinds, depending on the harvesting technique, ranging from sail dredging to hand-tonging, and so forth and so on. There are licenses for almost everything and everybody you can imagine.

The point is, that there is no point; there is no consistency, no single thing you can hang a statistic on, and nobody's ever tried.

That's for openers. Next, we have to face the fact that many professional watermen have more than one license, reflecting differing waterwork. That's the reason why there are about 28,000 licenses but only 21,000 people involved. But this has never been sorted out. Some watermen have their own boats, and some work with those who do, and some switch back and forth. Some work at only one thing in season, and then go ashore. Some work year-long at first one thing and then another. Some are part-time, and then only when there's something going close by.

But many more license-holders are not in fact professional watermen at all. Some are wives who occasionally help their husbands. Many are in fact children. A vast number are simply people who have an amateur hangup about waterwork for one reason or another. For example, there are a number of people in the area, many of them office-workers, whose idea of a suitable two-weeks vacation each year is to take a part-time job on a waterman's boat, or their own.

There are even more whose reason for having a license stems from their desire to have their own fish or crabs or oysters or whatever now and then, but because of the techniques involved are required to be licensed. An example of this we've heard of concerns a person in the Annapolis area who each year holds a huge party at which oysters are served, and, because of the retail cost and because he gets a kick out of it, the host uses his oystering license once a year so he can legally hand-tong a few bushels for his party—period. As if this kind of thing did not confuse the issue enough, there are also apparently a large number of license-holders who simply renew them without using them at all.

Again, nobody has the slightest idea who's who, how often, how many, when or why.

Nor has anybody ever taken the time to even match up licenses in order to learn who has more than one kind, or which kinds.

This confusion and duplication has already cost this state a bundle in printing and postage alone. The Department of Natural Resources has its own publication for licensees and mails it out using a list it made up from license names and addresses. The Maryland Watermen's Association also has a publication, and we are allowed to purchase the same list and labels, which we appreciate. But each time, we have to go over every name on a list of tens of thousands, pulling off duplicate labels.

We find three or four people in the same family in the same house. Only one publication is necessary. We find that John Smith is listed elsewhere, also as J. Smith, J. Q. Smith, J. Quincy Smith, Quincy Smith, and John Quincy Smith—all at the same address. Sometimes we find that Smith seems to be living in two or three places simultaneously. Some we know have died, and others moved away.

The DNR is well aware of this mess, but they've never had the time or people to sort it out, and it's a job that must be done by a thoughtful, knowledgeable human being, not a pushbutton. So the mess builds up, and the expense stays up and gets worse.

Now let's look at the people involved. We already know that some licensees are watermen and some are not. And we're pretty sure that most of those who are not, are also pretty well educated, make pretty good money, and live pretty well, because we've met some like that. We also think that most of these non-watermen are like that, but we don't know, and nobody else does either.

We are sure that most real, professional watermen live more or less hand-to-mouth, too, and there's lots of evidence on that, but we don't know exactly. We think that about 65% of Maryland watermen are black, but we don't know for certain.

We are also pretty sure that most watermen live in what the Government would classify as disadvantaged communities or situations—but we can't prove anything, because nobody knows anything.

It's not that nobody's made any studies. We have bagsful of studies, heaps of studies, whole libraries full of studies, all full of guesswork gathered at great expense. The nearest thing to a socio-economic study of watermen in recent years was a little job done by Dr. R. J. Marasco of the University of Maryland. It was paid for under a 1971 Federal contract, done in 1972, and published just last June. It was called "An Appraisal of the Alternative Earning Power of the Maryland Oystermen" and is very interesting and bears out a lot of feelings many of us in and out of Government have had about watermen generally.

The only trouble is that Dr. Marasco was only able to interview 133 oystermen in four communities out of maybe 9,000 or so all over the place, and he admits in his study that—and I quote—"It is difficult to say how representative these four communities are . . . . sufficient information is not readily available to identify the characteristics of the population of oystermen in Maryland, and relate them to those of the sample fishermen in these communities."

Any of us can very safely say the same thing about any other commercial licensee in Maryland, and I just can't emphasize enough how frustrating and miserable it was for us right after Hurricane Agnes, just because we didn't have any good hard socio-economic data. Everybody knew that Agnes wrecked the industry, everybody knew that thousands of people were out of work and many financially ruined, and everybody knew this, and everybody knew that—but trying to get solid relief out of a Government agency by saying "everybody knows" was a waste of time. They "knew", too, What they didn't know, and had to know, and what neither we nor the State could tell them so they could pick out the right kind of appropriation or write the right kind of relief bill, was exactly what the losses were, exactly how many, exactly to whom and when and why, or exactly anything else. Nobody knew that.

Now let's look at boats. Workboats vary hugely, from the famous shipjacks, which use power two days a week only, but an auxiliary motor on deck all the time, down to large rowboats with outboards, often employed by crabbers, and often part-time.

Ownership of those boats is a matter of record, but there are two sets of records—Federal documentation and State registration and nobody has ever attempted to match these up, and that's a situation that has made it easy for somebody to steal a boat and cook up genuine but illegal alternative papers for it, and there are Coast Guard, FBI and Marine Police cases on file to prove it.

What's more, nobody has ever attempted to match either kind of boat ownership with a license-holder as such, in order to try to figure out who might have what kind of boat for what use, or average values or ages or types or anything else.

Now to the fuel situation. The state glibly asserts that the Maryland watermen use between 18 and 20 million gallons of gasoline a year—but all they have any facts on is the 2-million-odd on which watermen have bothered to file for their 9-cent-per-gallon road tax refund. Very few watermen ever file for a refund, partly because they characteristically avoid any contact with government officials whenever possible, partly because they don't realize how much it costs them not to file, partly because few even know they're entitled to it, and partly because, as Dr. Marasco's tiny study of a few oystermen suggests, most have less than an 8th grade education, and a lot are just plain functional illiterates.

So nobody knows how much of which kinds of fuel are really being used, or even whether it's genuine professional watermen who are using it.

Furthermore, nobody knows dimly, much less exactly, what the watermen's fuel userate is at different seasons, nor is it known who all their dockside sources are nor in what quanttiy, nor to whom, nor to what kind of boat in what season, nor for what purpose.

Complicating that is the further fact that watermen are migratory in their work. The Bay is 195 miles long, and those who want a catch must travel to where they can get it and often stay in that sector days at a time. It follows that they will fuel up in that area, rather than their usual home area, for as long as necessary. Thus the supplier's need itself is mobile and erratic, according to catch, season, weather, and where the opportunity lies. On that nobody will ever be able to predict anything exactly, but some kind of compensating fuel allotments for suppliers must be worked out.

Then there is the question of "What is a workboat?" Some, such as the common clamboats or oyster patent-tongers, are self-evident but only at the time you look at them, because they can change rigs. A large, open outboard of any kind may be a workboat or not, depending upon its use at the moment. The same is true of the fin-fishing sector of the industry, where it becomes rather difficult to distinguish between a cabin cruiser and a workboat for fuel allotment purposes. For example, charter boat operators have no fuel priority classification of any kind, and this is logical on the surface, because they are very apparently taking out sport fishermen, and that is recreation, not commercial production. What a lot of people never realize is that these "recreational" trips are in fact productive because all the fish are eaten, some by the sportsman or his friends, and extra catches often end up on the open commercial market, supplementing the charter boat skipper's income from the trip.

Gentlemen, I could go on and on and on, but I don't think I have to. The message is loud and clear: until everybody concerned has a lot of geniune and precise data right in their hands, nobody, but nobody, will have the foggiest notion what any watermen are, who are they, why they are, where they are, what they do, when they do, how they do, what their actual needs are, what the state's actual needs are, what anybody's plans are or ought to be, whether the needs or plans are right or wrong, too big, too small or just right, or who should get what share of what for what purpose, if any.

And that kind of data can only be gotten directly from the license-holder himself, on a face-to-face basis.

Right now, the fuels problem is giving Maryland watermen the biggest picture of economic disaster they or this state has ever faced, and accurate information is the only protective weapon we can use to fight with, and we don't have any.

As I see it, that leaves three alternatives. First, we can sit here and ignore the situation or dilly-dally for weeks over details, and risk obliteration of the second-largest commercial fisheries in the United States, along with everybody in it.

Second, we can kid ourselves into believing that the shortage will disappear tomorrow, or that just by saying "everybody knows" we can persuade the government to enforce a guaranteed supply of fuel on a willy-nilly basis.

Or third, we can immediately effect a wholesale personal survey of every commercial licensee, preferably handled at the point by selected watermen—the only people watermen will talk to—do it fast, and then see to it that every bit of that data is processed, computerized and analyzed forthwith by an appropriate agency, and then get those analyses into the hands of the suitable authorities, with all urgent speed.

That alone won't guarantee enough fuel, but it will give us the best and only weapon we've got to get any at all, and we're not talking about anything less than simple survival right now. If we do survive this, the data will be invaluable in the future in assessing all aspects of the entire seafood industry, its people and its potential, using realities and not guesswork.

There must be definition, identification, and precision. As of this moment, none of these factors exist, and the entire watering industry of Maryland thereby risks sudden extinction.

Gentlemen, the choice is yours,

Thank you.

STATEMENT BY LAWRASON RIGGS, JR.

I am Lawrason Riggs, Jr., President, Oil Heat Association of Maryland. I speak in behalf of the 55 companies who are members of our association and who among them are responsible for supplying heating oils and service to more than 200,000 homes in Maryland.

At the outset I would like to speak in praise of the organization set-up by Governor Mandel. We have found his staff advisers and the people in the state's new Energy Office to be very energetic and remarkably responsive to the needs of heating oil dealers experiencing supply problems. It must be recognized that these people are working under extreme emergency conditions and that their work has not been made easier by a serious lack of clear cut information about overall fuel supplies. Nevertheless, we do know of a number of cases where local heating oil dealers and, in turn, their householder customers have been spared the calamity of total runouts as a result of the intervention of the Maryland State energy people. I think the most important point that our industry can make today is the widening inequity of the sacrifice being required by various segments of our population—and the apparent unwillingness of government to recognize this inequity.

The situation is really quite simple. The millions of American families who live in oil heated homes are being asked to dial down their thermostats because they are faced with an almost certain shortage of heating oil. The President has decreed a 15% reduction from 1972 levels in the availability of heating oil for residential purposes. Obviously, the homeowner who has oil heat has no choice but to comply with the directive that he cool down his house. It's either that—or else.

On the other hand, the millions of American families who have either natural gas heat or electric heat are not required to change their living habits in any way—although both government and utility interests have issued pious-sounding conservation suggestions. However, these suggestions are hardly in harmony with the actual practices of the Baltimore Gas and Electric Company, to use one example. This company is not only supplying all the gas and electricity its customers can use, but is actually adding new customers every day for both gas heat and electric heat. In the light of the circumstances, many of the customers who are installing either gas or electric heat are converting from oil. For a country that purports to be rationalizing its energy policy, such a situation is nothing less than incongruous—as well as extremely inequitable.

The only reason the electric industry is able to continue to add new electric heating customers is because the electric companies are able to obtain the No. 2 oil they need to operate the highly inefficient peak-load turbines used to generate electricity during cold weather. The electric companies have been able to outbid our member dealers for oil supplies, while at the same time being one

of the major causes of the heating oil shortage. The amount of home heating oil being used to generate electric power has risen over 800% in the past few years. It seems to us to be as clear as anything can be that in circumstances like those prevailing at the present, it is entirely wrong to permit the expansion of electric heat. Between 2½ and 3 times as much oil is required by the utility company to generate the electricity to heat a home as would be required if that home were heated by an on-site oil burner. And yet, as I said, our industry is short of oil, our customers are suffering some discomfort—while the electric companies are not only continuing to provide electricity for a wastefully inefficient method of heating—but are preempting our normal supplies of oil to permit their expansion. At the minimum, we believe there should be a ban on new electric heating installations. In the long range, we believe that electric companies should be required to use fuels other than home heating oil for power generation.

As I indicated, the utility companies are adding new gas heat customers also. Here again, they are able to capitalize on this situation because of practices which are very definitely depriving the homeowner who has oil heat of his rightful supply of heating oils. The Baltimore Gas and Electric Company has contracts with 174 large commercial, institutional and industrial users who receive their gas service on an "interruptible" basis. Although these customers are a tiny percentage of the company's overall customer list in numbers, the amount of fuel they use represents a highly significant volume—since they are major industries, large housing complexes, large office buildings, hospitals and public structures. There is nothing new about the idea of "interruptible" gas service. What is new is the fact that the contract periods of interruption have increased from some 20 days per year, just 2 or 3 years ago, up to 100 days during the present winter. An additional and highly important new element is the fact that whereas these large interruptible customers used no home heating oil whatever as stand-by fuels as recently as 1970, today home heating oil represents a substantial share of the energy required by this group of large users during the periods of gas interruption. Here again, the practices of public utility companies have enabled these companies to do business pretty much as usual but have deprived the homeowner with oil heat of his rightful and traditional supply of home heating fuel. We believe that gas utility companies and their customers should share in the energy shortage just the same as our customers are sharing. In the short range, we urge that all gas customers be subjected to the same energy cutbacks that are being imposed on oil heat customers. In conclusion, I think it should be clear to all that all fuels and sources of energy are interdependent. It makes little sense to penalize one group of customers—so that another group can carry on as usual. The times cry out for coherent energy policies and regulations.

To sum up, we recommend:

1. That the electric companies be prohibited from adding new Electric Heat customers—as long as the utilities are using scarce home heating oil supplies for the purpose of generating peak-load electricity.

2. That the gas companies be required to continue to serve their "Interruptible Customers" rather than dumping them on the hard-pressed oil industry at a time when the gas companies are adding new residential gas heat customers, in other words, dumping their low-rate customers to take on new customers paying high rates.

Thank you very much.

THE BURNS & RUSSELL CO.,
Baltimore, Md., December 28, 1973.

Hon. J. GLENN BEALL,
Federal Building,
Baltimore, Md.

DEAR SENATOR BEALL: Thank you for the privilege of allowing me to make a brief presentation on the effects of the energy crisis as it relates to the problems of the petrochemical business. For all intents and purposes, I have been away from my office since the 13th of December and therefore the notes I used as a guide in my presentation are extremely brief for a subject so enormous as the petrochemical business. As requested, enclosed is a copy of my presentation which lists 21 points.

In essence, the export of the prime chemical styrene must be brought into balance with the desperate need of producers of unsaturated polyester resins in the United States. The Federal Government must take action to provide the United States petrochemical industry with their needs of styrene before they allow export of this vital monomer for pure profit taking purposes.

If I can contribute further information which will assist in anyway, please do not hesitate to call upon me.

Sincerely,

ALEXANDER H. RUSSELL,
President.

PETROCHEMICAL PRESENTATION—ALEXANDER H. RUSSELL

ENERGY CRISIS MEETING,
Federal Building,
December 27, 1973.

1. Essential feed stock of petrochemicals for polyester business is benzene which is a direct derivative from crude oil.

2. The prime chemical used in our business and any other user of unsaturated polyesters is styrene monomer.

3. Styrene is a derivative of benzene by catalytic cracking process.

4. World market is siphoning off benzene and styrene because of price control and world demand.

5. Also benzene is being used in gasoline as a replacement for lead utilizing part of the supply of this critical chemical.

6. Price control of styrene is 9.9 cents per pound.

7. World market price is .25 cents per pound.

8. There is no control over the sale or price of styrene in the world market except price control in the United States.

9. The production of styrene in the United States is over six billion pounds annual.

10. 380 million pounds were used in the United States in the unsaturated polyester business.

11. 400 million pounds were exported.

12. Because of the shortage of crude oil, styrene for polyesters will be reduced to 290 million pounds. (estimated)

13. With phase four, United States price at 9.9 cents per pound, and the world market price at .25 cents plus, and our exports greater than our need, it is easy to see how this policy has turned the polyester business off balance.

14. We are advised that styrene is also being held in large quantities awaiting an upward break in the market, or to sell abroad as three and four times the price.

15. Major manufacturers of polyesters are paying .25 cents per pound for styrene purchased from abroad to stay in business. I might add a very large black market is developing in the supply of styrene.

16. This means an automatic pass through of price to the fabricator and consumer.

17. Availability of petrochemicals is on a month to month basis and no one will commit to quantities of supply or price because of speculation.

18. This sort of a condition is an incredible disruption to corporate operations, planning and supply and many small companies will be forced to close.

19. I would like to say that my Company has been able to supply its customers without very much disruption, but we have a long history with our suppliers. On the other hand, we have had large price increases with a snowballing effect which has been difficult to pass through—they have been coming so fast!

20. We see as much as a 50% increase in the cost of a pound of polyester by May which must be passed through and will become a major contributor to inflation.

21. In summary, the fact that Federal Regulations on petrochemicals stops at benzene and allows production of styrene to be exported in equal quantities to our desperate United States needs, seems to me to be a matter for the government to stop!

PLASTIC-ITEM MAKERS URGE AN END TO CURBS ON PRICE OF SUPPLIES

NEW YORK.—About 150 local manufacturers of plastic toys, housewares and other plastic products met in angry session and said they have petitioned the Cost of Living Council to remove price controls on petrochemical raw materials needed by the plastics industry to maintain production.

The manufacturers also created a committee and agreed to raise funds to mount a lobbying effort in Washington on their own behalf.

The ad hoc meeting, called by the manufacturers independently and not through any of their trade associations, served as a forum for sometimes boisterous, hostile charges against major chemical and oil companies which, it was alleged, have stopped supplying plastics concerns completely in order to sell their materials at higher prices in Europe and Japan.

Under Phase 4 regulations, domestic chemical and plastic prices are controlled while imported materials are sold for whatever customers will pay. As a result, industry spokesmen said many plastic raw materials—like styrene and polyvinyl chloride, which normally sell for nine to 16 cents a pound—can be bought but only "under the table" at up to 80 cents a pound.

Some manufacturers attending the meeting charged that a "black market" exists in certain plastic raw materials, although they said in interviews that they didn't have enough evidence to substantiate this claim in any court action.

A number of manufacturers, including Pete Miale of Astor Tool & Die Co. and Ted Riky of Randel Plastics Co., said they would go bankrupt by early next year unless supplies start flowing again.

Sheldon Edelman, an official of the Plastics Manufacturing Association, a regional trade group, said 15,000 persons would lose their jobs in the New York metropolitan area unless raw materials are secured soon. He said he and PMA representatives met with U.S. Sens. Jacob Javits (R., N.Y.) and Clifford Case (R., N.J.) and Cost of Living Council staffers in Washington last week to press the industry's case for economic relief. The association cited a recent industry-sponsored study that projects a loss of 50,000 jobs in the U.S. if supplies of petrochemical and plastic raw materials are cut 15% from mid-1973 levels.

Mr. Miale urged manufacturers to join him in a possible antitrust suit against a major oil company. The oil company, according to Mr. Miale, cut off his raw materials supply without warning despite a history of good business relations with the oil concern.

In recent interviews with chemical and oil

company executives, industry officials said charges of illegal black market or unethical sales practices are unwarranted and unfounded. Spokesmen for Dow Chemical Co., Union Carbide Corp. and a Gulf Oil Corp. unit said they have put all customers on allocation and concede that some small, noncontract manufacturers buying from independent distributors may not be getting anything at all. Union Carbide has asked for an end to Phase 4 controls, saying the company will have to increase its exports significantly unless such action is taken.

TESTIMONY BY W. F. HOLIN

I. Name—speaking for two chambers, representing over 2,000 professional, commercial, and industrial firms in Maryland.

II. As you know, Senators, we were invited here to provide a business point of view on the energy situation. To the extent that this would entail an expression of the individual concerns and needs of such diverse industries in our membership as airlines, hotels and restaurants, manufacturing plants, retail stores, and so forth, we're not prepared to do the job in the short time available. However, we would like to take this opportunity to share with you some *general* thoughts on energy and its relation to business—and here we're talking about business as an integral part of our community.

III. To hear some people talk industry is some kind of isolated, impersonal, alien thing on whom it's frequently convenient *and* expedient to shift troublesome burdens. For example, excessive environmental and consumer laws enacted out of current zeal for these high-minded causes, readily place extremely high costs or business without a full realization or revelation that ultimately it's the consumer who invariably pays. Now business *does* have its faults, but what's overlooked is the fact that industry is a vital part of our community—a provider of jobs for our citizens, a maker of the goods that society needs. and a rock-like tax base for Federal, State, and local governments. Government, the public, *and business* are all interdependent. What we *do* to hurt any *one*, will hurt the others.

IV. So in a time of shortage we can't arbitrarily take whatever we want from the vital energy needs of industry without courting a lot of trouble for all of us. There must be a satisfactory allocation of energy to factories and commercial enterprises to avoid major economic disruptions—and we urge this not as a business organization arguing only for the sake of business per se but also for the well-being of our citizens, our government, and all other elements in our community.

V. Along with proper allocations, a key to stability in our economy is an effective conservation program. The Chamber has initiated such a program and reports of results of these voluntary efforts have been very gratifying. So far nearly 500 firms, including virtually all of the major fuel users in our membership, have signed pledges to comply with the Chamber's conservation program and have appointed coordinators to implement in-house energy-saving. A sample of seven of the larger firms has projected a fuel-saving of over fifteen and a half million equivalent gallons of fuel oil for 1974 based on the initial steps taken by these firms in the relatively short period conservation efforts have been under weigh. And they have a total target of 10 to 12% savings. One firm reported a 20% reduction in kilowatt demand through installation of a computerized power demand monitoring system. All of this will be accomplished without reductions of operations or any employee layoffs.

VI. All of which leads us back to the subject of the possible effects of current fuel shortages on the economy. It should be understood voluntary conservation efforts can take us so far, but there is a point beyond which a mandatory reduction of energy usage—a crunch point, if you will—will mean the forced curtailment of production and the loss of jobs.

VII. Now the degree to which this occurs is, in a manner of speaking, largely in the laps of you gentlemen. You must decide what our energy, pricing, tax and other policies will be and in what direction the energy administrators will take us. And, it goes without saying, these are the decisions which will in the main shape our economic course.

VIII. Any number of media people have called us at the Chamber in recent weeks asking what effects on the economy the energy situation will have. With so many imponderables, the best answer would seem to be Churchill's (quote) "it is a riddle wrapped in a mystery inside an enigma."

IX. But we *can* say *this* after touching base with a handful of top people from the basic industries, including automobiles and steel, they are to a man genuinely optimistic about 1974. They *do* emphasize, however, if the more funeral predictions we've heard from a few sources turn out to be right, it will be less because of objective facts than because they have so scared the heck out of consumers and even businessmen as to be in part self-validating. And we all realize, I'm sure, the degree of potential indirect injury once domino effects start in motion.

X. This is not to say even without the negative work of the *prophets of doom* there will not be direct energy problems in some industries. Certainly airlines, trucking, housing, resorts, and others have felt some impact already. Only last week we received a justifiable complaint from a small company whose entire business is lighted signs, pointing out how our recommendation to our membership to eliminate unnecessary outside lighting would hurt their business. The effect of the energy shortage on their business and their employees is real. But we do want to emphasize the stability of operations and employment in the overwhelming number of businesses can be maintained if we, first, forestall any unjustified outbreak of consumer pessimism and, second, in recognition of the veritable keystone role of industry in our society, provide for adequate allocation of energy for business up to that "crunch point" I spoke of earlier.

XI. As for recommendations for Congressional and Federal administrative action, we could recite the litany of actions I'm sure you're familiar with by now. I refer to those steps which would pave the way for fuller utilization of our extensive coal reserves, the exploration of offshore fuel resources, research on the more exotic sources of energy—atomic, solar, geothermal and so forth. And all of these are important.

XII. I'll not dwell on any of these in detail except to speak for a moment about the need for sensible and selective relaxation of environmental standards during the term of the energy shortage where such actions will not imperil health. Please don't misunderstand. We're not advocating any wholesale abandonment of our long term clean air goals. However, we do argue for relaxation of those standards which, without sacrificing the health of our citizens, will permit the burning of available fuels to free supplies of other fuels in critically short supply. Further, we argue that suspensions be for lengths of time sufficient to provide economic incentives for industries to make costly capital investments in conversions of equipment, mine openings, establishment of transportation systems, and so forth. As a matter of fact, given the interrelationship of environmental decisions and our energy problems, particularly in view of past experience that wrong decisions can compound such problems, we recommend a continuing balanced review of environmental laws, standards, and regulations—both of those now in force and new ones proposed in the future. (Cite News American editorial.) Again, this is not meant to be a call for a change in the purpose of the Clean Air Act and other broad, rational environmental policy laws, but merely an expression of need for a system that lays out for all to see both the benefits of these environmental decisions and the costs in terms of other human needs.

XIII. And speaking of human needs, we are concerned about the likely hardship the system of allocation of heating oil based on records of past consumption places on inner city cash customers for whom there is no historical data. Obviously some special handling is demanded here.

XIV. Finally, it seems to us there is a need for prompt action on a form of the emergency energy legislation, particularly with respect to the statutory establishment of a Federal Energy Administration. While not wishing in any way to be critical of the harassed administrators who have been dealing with this difficult problem, the public and business have been and are confused. The story about the well-intentioned but perplexed man who sets his thermostat at fifty and drives at sixty-eight is probably apocryphal but it does make the point. One industry problem we wrestled with for weeks could have had plant closedown effects until we finally found the proper guy to tell our story to. I might add the solution to that problem came after Mr. Simon went on board as energy chief, so things are looking up.

XV. And perhaps that's an appropriate optimistic note on which to close—that things will be looking up as a result of a better understanding of the real scope of the energy-economy problem as time goes on—in the government, in business, and among the public. We commend you for providing this forum where we could express our views on this vital matter. No doubt we'll have additional thoughts to convey to you as time goes on, and we would appreciate the opportunity for continuing communication. Thank you very much.

INTERNATIONAL ENERGY DIPLOMACY

Mr. HARTKE. Mr. President, a dialog developed over the weekend between the Shah of Iran and our Administrator of the Federal Energy Office, leaving further controversy and uncertainty in the international diplomacy of energy. The statement of the Administrator clearly points up the paucity of information available to the Congress and the American people. We in the Congress cannot make reasoned judgments without accurate information. Instead, we were given another volume of rhetoric leading to ill-feelings between the Governments of the United States and Iran, all during a worsening petroleum shortage.

There is little reason to suspect the Shah of making false statements. Rather, he may only want to open some American eyes to reality. We must ask some very difficult questions of our administrators and oil corporation executives if we are to make reasoned judgments which will alleviate this problem/crisis. What is the present exact production of crude oil in the United States, for each month of the past 10 years, and the anticipated production for the next 10 years? What are the refinery capabilities in the United States now, for the past 10 years, and for the next 10 years? How much crude oil and refined products

were imported into the United States during the past 10 years, today, and anticipated for the next 10 years and from what countries?

These are questions which must be answered by the corporation executives involved and by our administrator charged with the duty to lessen the shortage of petroleum products to the American people. The Government of Iran had little to gain from the statement of the Shah. They had much to lose. If it is true that the quantity of oil the United States is now importing from the Middle East is comparable to preembargo days, then the hoarding of tremendous quantities of crude oil and its refined products by the major oil companies to force up the price has left the entire Government operation suspect. There are indications that tremendous storehouses of petroleum products are reaching the United States; however, we have no accurate information concerning preembargo shipments. Figures reflect imports between 1.2 and 4.9 million barrels per day. Yet we now have an energy shortage which may leave lasting scars on our economy.

Mr. President, if the crisis/problem in the United States is not necessary, and the United States no longer needs to bid exorbitant prices for crude oil in Iran, then, Iran stands to lose substantial amounts of money from a lessening demand for their product. The Shah was not inviting intemporate comments from American administrators. He stated what his information from other Middle Eastern countries indicates. Mr. President, international diplomacy seeking solutions to perplexing problems regarding redistribution of articles of value will not reach a necessary level of sophistication when comments concerning irresponsibility are offered as means to an end. All that the people of America want is accurate information. I call upon the Administrator to forward to the Congress the exact amount of petroleum products reaching the United States on a weekly basis for the past 6 months as reported to him by the Customs Bureau. Then these statistics can be presented to the Shah for his rebuttal.

The American people are now demanding to know the truths from the Government and all enterprises engaged in every facet of the production of oil and energy. We have experienced numerous secret enterprises in our history, yet not one has affected the welfare of our way of life as much as the present.

I note here for the consideration of my colleagues, that the AFL–CIO is presently debating the proposition of calling for the nationalization of U.S. oil companies.

Whatever action the distinguished 93d Congress may adopt to alleviate the energy shortage must be soon, well reasoned, and based on sound and accurate information. We no longer can wait in suspended agony for the Arabs to lift their oil embargo. Indications are it will not be the answer. We no longer can stand by while rhetoric abounds from every corner. The people of the United States are now demanding action, and they deserve more than administrative conclusions without facts and answers.

The actions and conduct of the Administrator were not sound nor based on any reasoned policy. We cannot allow the energy situation to worsen into an international shouting match—especially between friends.

WATER QUALITY

Mr. BROCK. Mr. President, I would like to bring to the attention of the Senate a recent report by the General Accounting Office on the state of the programs to upgrade water quality across the Nation. What I have read has shocked me. This report clearly states that our research and development efforts have declined, our whole effort in this field is fragmented, and that the Environmental Protection Agency does not know what, or how much, other agencies within our own Government are doing.

Water pollution research is being conducted and/or supported by at least 25 bureaus and offices in 12 departments. Coordination is so bad that duplication and overlap occur not merely between agencies, but even between bureaus within the same department. Neither the Office of Management and Budget, nor the Council on Environmental Quality apparently is in a position to perform a coordinating role. As for EPA itself, the GAO noted that out of 263 research projects carried out by the Interior and Agriculture Departments, which might have a bearing on this issue, the EPA incredibly was not aware of over half of them. They admitted that a large percentage of these projects could have been useful if they had been involved. Within EPA's program, GAO noted the need for more explicit statements of priorities and recommended a more efficient system of disseminating the results of completed research and development. I would also point out that inadequate coordination is not confined to the Federal Government. There appears also to be a significant lack of integration between public efforts and private research activities.

All in all, it is not surprising that GAO is very pessimistic about the chances of meeting the goals established by the 1972 Water Pollution Control Act. Yet, we seem to be formulating goals which we are unable to meet, again becoming bureaucratically musclebound. All this achieves is disillusionment and cynicism amongst the people toward Government—and that, I do not need to add, is at an alltime high.

This report again emphasizes the dire need for us to constantly monitor the programs we have established. We must determine if they are working, how well they are working, if they are achieving their goals, and whether the taxpayers' dollars being spent on them are being spent efficiently. We must be concerned with efficiency if we are going to maximize the impact of our limited resources. I very much hope that the agencies involved, and all other agencies, are studying this report and attempting to significantly improve the situation. But moreover, I hope that my colleagues are studying this report. I hope we are finally learning the lesson that we must be able to justify our expenditures, and at the same time, have ways and means of determining if those expenditures are receiving a dollar's worth of service for every dollar spent.

SSI PAYMENTS TO THE DISABLED

Mr. RIBICOFF. Mr. President, on February 27, I introduced S. 3069 in conjunction with a bipartisan group of Senators to assure that thousands of disabled persons are not arbitrarily dropped from the rolls of the supplemental security income program for the disabled pending a redetermination of the eligibility of those disabled persons who came on the State rolls in the last half of 1973.

I ask unanimous consent that the following letter from Acting HEW Secretary Frank Carlucci to the President of the Senate transmitting a proposal virtually identical to mine be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. RIBICOFF. Mr. President, our bill has attracted bipartisan support from a number of Senators. I ask unanimous consent that the names of those Senators supporting this proposal be printed in the RECORD.

There being no objection, the names were ordered to be printed in the RECORD, as follows:

Ribicoff, Mondale, Kennedy, McGovern, Cranston, Pell, Nelson, Biden, Hugh Scott, Javits, Roth, and Mathias.

EXHIBIT 1

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
February 27, 1974.

HON. GERALD R. FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To increase the period during which benefits may be paid under title XVI of the Social Security Act on the basis of presumptive disability to certain individuals who received aid, on the basis of disability, for December 1973, under a State plan approved under title XIV or XVI of that Act."

The bill would authorize the payment of supplemental security income benefits, on the basis of presumptive disability, for up to twelve months, to otherwise eligible individuals who became recipients of State-administered disability assistance during the second half of calendar year 1973.

The original legislation establishing the supplemental security income program provided that individuals who received assistance under State plans for aid to the disabled for December 1973 should be considered disabled for purposes of the new federal program when it became effective on January 1, 1974, without regard to the federal disability standards. The Department therefore proceeded to convert all such recipients to the supplemental security income rolls. Then, on the eve of implementation of the new program, P.L. 93-233 amended this provision of the original legislation to provide that only individuals who received assistance under State plans for aid to the disabled both for December 1973 and for at least one month prior to July 1973 should be considered disabled without regard to the federal disability standards.

There was not time to make the necessary changes in the supplemental security in-

come rolls and the Department has been paying benefits to the affected individuals on the basis of presumptive disability, pending the identification of the individuals whose eligibility was affected by P.L. 93-233 and the determinaton of whether they are disabled under the federal disability standards However, present law provides that benefits may be paid on the basis of presumptive disability for only three months and it is now clear that it will take a year to complete the task. Therefore, the authority to pay benefits to these individuals on the basis of presumptive disability for an additional nine months is necessary if we are to prevent a disruption in the payment of benefits to a substantial number of eligible individuals.

I urge that the bill receive prompt and favorable consideration.

We are advised by the Office of Management and Budget that enactment of this draft bill would be consistent with the Administration's objectives.

Sincerely,

FRANK C. CARLUCCI,
Acting Secretary.

VETERANS' ADMINISTRATION GI BILL EDUCATION AND TRAINING PROGRAM

Mr. HANSEN. Mr. President, Administrator of Veterans' Affairs, Donald E. Johnson held a news conference February 26 that dealt with recent reports of late payments to Vietnam veterans going to college under the GI bill.

This is a subject all of us are interested in and I think that a statement Mr. Johnson made in opening his news conference is quite informative.

I ask that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY DONALD E. JOHNSON, ADMINISTRATOR OF VETERANS' AFFAIRS

First, I want to thank you for your attendance this afternoon and this opportunity to discuss with you the Veterans Administration's G.I. Bill education and training program.

The current G.I. Bill program began on June 1, 1966. It has been long recognized, I believe, that our series of three G.I. Bills since World War II have been among the finest legislative investments we have ever made for the nation as well as for our veterans, and certainly our newest program is proving to be just that.

In the seven years and nine months this Third Generation bill has been in operation the VA has porvided education and training for 4,576,220 veterans and servicemen. As of the end of last month there were 1,405,431 trainees enrolled under the G.I. Bill. More veterans will be trained during this fiscal year than ever before since the new program started in 1966.

A natural question has been: How does the current program compare with the two earlier ones?

At the higher education levels, there have already been more Vietnam era trainees going to college than there were during the entire 12 years of the World War II G.I. Bill. Through the end of last month, there were 2,349,458 Vietnam G.I. Bill college trainees. This compares with a 2,230,000 total in World War II and 1,158,109 college trainees under the Korean G.I. Bill.

You often hear it said that the total participation rate under the present G.I. Bill is far below that of World War II.

As a matter of fact, the participation rate for Vietnam era veterans is precisely the same right now as it was for World War II veterans at the same stage of their program. After the first 91 months of educational assistance under both programs the participation rate is an identical 50.4-per cent. The participation rate for Korean veterans was 42.5-per cent at the same period in time, and for Post-Korean veterans it has been 45.4-per cent.

With the extra "outreach" effort VA has invested in the current program—an effort we plan to intensify even further—and the probability of increased allowances paid to veterans, we confidently expect the present G.I. Bill will be the most successful of all in any terms of comparable measurements.

On the increased allowances, incidentally, I think most of you know that the President has recommended to Congress a cost of living increase of eight-per cent, and that since 1969 he has already approved increases passed by Congress totaling about 69-per cent.

I think you would all agree that we are talking about a program of very considerable magnitude. In the course of one year the VA processes something in the neighborhood of 13-million educational checks.

In order to process this huge number of checks the payment information must come not only from VA's own records, but also from the training institution and from the veteran himself. If any one of these pieces of information is not provided in timely fashion, or if incorrect information is supplied, then there is inevitably a delay in the payment of G.I. Bill allowances.

Complicating the payment procedure starting this school year has been a provision for the payment of allowance checks in advance to veterans instead of after each month's training was completed as has been true in the past.

The advance payment concept is a great idea, and is of great benefit to veterans. In fact, it was proposed by this Administration and was greatly favored by Congress. But the entirely new procedure has injected an additional element into the payment timetable, and—as with all new procedures—it has created some "bugs" which we believe we have now ironed out.

Last night at the President's press conference a question was raised about the payment of G.I. Bill checks. And earlier this week—on February 20—one of the TV network news shows had a segment indicating that late payment of these checks was almost epidemic.

It is my hope in holding this conference that I can put the payment of these checks into proper perspective.

The simple truth is that the vast majority of these millions of checks are paid right at the moment they are due.

In an operation of these proportions it is obvious that not every check is going to be paid on time every month. We strive for such a goal, of course, but it never has been nor will be possible considering such constant changes as dates of entering and leaving school, changes of address and dependency status, and the need for correct and timely certifying information from thousands of schools and millions of veterans.

Let me give you an example of some of the problems by referring to the network program I mentioned earlier.

Four veteran students were interviewed on the program. All of them blamed the VA for non-receipt of checks. And yet our investigation shows that in each case VA actions were correct for the information provided.

One veteran's check was mailed promptly to him, but the Post Office had to return them, for the veteran had moved and left no forwarding address.

The second veteran complained of no advance payment, and yet he had never applied for such a payment. Even the fact he had enrolled on the 15th of last month was not certified by the college until six days later. His check paying him through to March 1 was received by the veteran on February 25.

The third veteran was issued a certificate of eligibility by the VA last December 3, but he never requested an advance payment and has informed VA he will not enroll in school until next summer.

The fourth veteran was earlier enrolled in a correspondence course under the G.I. Bill. Under the law a veteran must certify to VA that he has completed a prior course such as this before the agency can pay him for new training. This veteran was advised of this requirement last November and again in January, but the certification had not been received at the time of the broadcast.

The network program charged that only nine of 58 veterans at the Montgomery (Md.) Community College had received payments from the VA. A check of both school and VA records the day after the broadcast revealed not a single complaint from the college relative to G.I. Bill payments.

Furthermore, a VA staff member who visited the school learned that in 13 of the 49 supposedly delinquent cases payments had been made directly to the veteran. In 20 other cases, the school's certification of enrollment had been only recently received, or was not obtained until contact was made with the institution. Eleven other veterans counted in the 49 failed to enroll at all. One veteran failed to provide the necessary record of his military service, and in the remaining four cases either the claim numbers of Social Security numbers failed to match existing names and records.

This, I think, will illustrate some of the problems in making these payments, and I do not want to hide the fact that problems do exist—including errors on the part of the VA.

But I do want to reemphasize that the vast majority of these millions of checks are indeed paid in timely fashion, and that even this good track record will improve in the future as the agency, the training establishments and the veterans grow more accustomed to the new payment procedures.

With me today is Odell W. Vaughn, VA's Chief Benefits Director and the man who heads up our G.I. Bill program. Perhaps if we take your individual questions at this time we can better put in perspective the situation on our G.I. Bill payments.

FUNDS FOR NURSING EDUCATION

Mr. HARTKE. Mr. President, among all of the health care needs of this Nation, there is none which is more important than the need to train an adequate number of qualified health professionals. With this in mind, I have been mystified by the attitude of the administration in failing to provide adequate funds for nursing education.

Nurses work hand-in-hand with the medical profession. In many instances, they perform duties that would otherwise require the time of already-pressed doctors.

Mr. President, I ask unanimous consent that the recommendations of the American Association of Colleges of Nursing for the support of nurse education be printed in the RECORD.

There being no objection, the recommendations were ordered to be printed in the RECORD, as follows:

RECOMMENDATIONS OF THE AMERICAN ASSOCIATION OF COLLEGES OF NURSING FOR THE SUPPORT OF NURSE EDUCATION

1. There is a shortage of nurses, particularly in the areas of teaching, administra-

tion and patient-care that require advanced training at the graduate level.

2. This shortage will become more critical with the enactment of national health insurance due to the reduction of financial barriers to health services.

3. In 1974 the Congress approved a total of $154,000,000 for nurse training in the areas of institutional support, student assistance and construction assistance, with the proviso that up to 5 percent of these funds could be withheld. The latter provision means that only $146,000,000 might be available.

4. The American Association of Colleges of Nursing recommends continued funding at this level with increases based on enrollment expansion and cost-of-living.

5. The Association also recommends the following changes in existing law to strengthen and expand the Public Health Service program of Federal assistance for nurse training:

a. Continue the authorization for construction with the establishment of priorities for facilities for the advanced training of nurses and renovation of existing facilities.

b. Continue the authority for project grants to schools of nursing with emphasis on programs to expand the enrollment of disadvantaged students, to increase training capacity for advanced training at the graduate level, for expanding training capacity in such specialty areas as nurse midwives, family health nurses, pediatric nurses and nurse practitioners, to experiment with new methods of health service delivery and to deal with maldistribution of health personnel.

c. Institutional support for schools of nursing through capitation grants should be increased to more nearly reflect one-third of educational costs, with an increment per graduate student added to the basic formula.

d. Traineeships should be continued for the advanced training of nurses as well as student loans and scholarships for undergraduate students.

REDUCTION OF FHA AND VA INTEREST RATES

Mr. BROCK. Mr. President, the energy crisis and the economy are certainly two of the most serious issues which we will face during 1974. In effect, the two cannot be divided. They are serious problems, ones which demand serious attention, and longer term solutions, not flash-in-the-pan ideas.

In an effort to help stimulate our economy, the U.S. Department of Housing and Urban Development recently reduced the maximum interest rate for FHA-insured and VA-guaranteed loans from 8½ percent to 8¼ percent. The announcement was made by HUD Secretary James T. Lynn in a speech before the annual convention of the National Association of Home Builders in Houston, Tex. In his remarks, Secretary Lynn pointed out many important reasons for such a move, ones that could have effects in other areas. I ask unanimous consent that his remarks be printed in RECORD for consideration of my colleagues.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REMARKS BY HUD SECRETARY JAMES T. LYNN

I welcome this opportunity to be with you. Still, I am reminded of Al Capp's reaction when he was invited to speak at a Harvard commencement in the heyday of campus unrest. The politically conservative cartoonist agreed to appear—but only if the university would give him an extra thousand dollars "combat pay" to face the dissident students.

For a great many of you, these are rough times. I could try to console you by making something of the fact that, in the decade of the 1960s, average housing starts did not even reach the one-and-a-half million mark. But it would just recall to your minds that old division of statisticians into three categories: liars, damned liars, and statisticians. You might even be tempted to add a fourth-category-government officials with rose-tinted vision.

I don't want to play that game. It wouldn't be honest, and it wouldn't be productive. It wouldn't win me any new friends; it might even cost me those I have. And it would not help the home builders or the home buyers, two groups whose well-being is of great concern to me.

You have certainly done your part. Over the past few years, especially, you have proved again the capacity of the private sector to respond to the needs and demands of our people. Your flexibility and resourcefulness were shown in a spectacular way when you boosted residential construction from the 1970 level of 1,469,000 starts to the 1972 record of 2,378,500, a 62 percent increase in just two years.

And it wasn't easy. To cite just two examples, first-rate craftsmen in sufficient numbers aren't easy to come by, and materials are sometimes impossible to buy at any price. But, to quote Colonel Pickering in *My Fair Lady*, "By George, you did it!"

On January 21, 1974, however—that's today—no one could fault many of you for asking yourself, "How did a nice guy like me get into a business like this? Here I am" (you might say) "with organization, people and investment geared to a market of two million-plus units a year, and suddenly the bottom drops out. What happened? And even more important, what will happen next?"

Before getting into a discussion of the problems and what can be done about them, I want to make something very clear: I do give a damn. I care about providing housing that will realize the dreams as well as meet the basic needs of our people. I care about the thousands upon thousands of jobs a healthy housing market can generate, both directly and indirectly. And I care about the fate of the home builders who make all this possible.

This isn't just my feeling. Let me read the message the President gave me last Thursday to deliver to you personally:

"It is the firm belief of my Administration that the housing industry is a key factor in our national economy and the essential element in the ultimate attainment of the goal first established in the Housing Act of 1949: a decent home and a suitable living environment for every American family. In this spirit I greet the members of the National Association of Home Builders at your annual convention.

"I am pleased that Secretary Lynn will be with you on this occasion to reaffirm first hand our sustained commitment to the objectives of my housing message of last September 19. We are more determined than ever to increase the availability of mortgage credit in the current market, to improve the overall credit picture for the long term and to find a sensible way to help meet the housing needs of families with low incomes.

"The constant new developments affecting the housing situation make it imperative that we have the flexibility to deal with each new change. This flexibility will surely be most effectively achieved if we have a healthy housing industry. May your deliberations provide useful direction and incentive for your members to meet their challenge in this critical task."

He—and, in fact, everyone in the Administration who is involved in housing—recognizes that you face a host of problems. Among these most surely are: the money situation; inflation generally; for some, the suspension of the subsidy programs; environmental problems; "no-growth" policies; the energy crisis, my friend Bill Simon's domain; and last but not least, economic uncertainty. Now I can't cover all of these extensively today, but I will spend a fair amount of time on some and at least touch on the others.

First and foremost among your problems has been money. For a while, the problem of the shortage of construction and mortgage loan money at practically any price. Money flowed out of the savings and loan associations. Now that it's flowing back in—for example, S&Ls gained $3.1 billion in deposits in December—the shortage of funds for lending has been easing, but interest rates on home loans are still considerably above those of a year ago—in most cases more than 100 basis points.

The economic gurus look into their crystal balls or computers and predict that although interest rates on long-term debt (which includes mortgages, or course) may come down somewhat in the months ahead, they will not come down much. So be it—I don't envy those who have to make their livings making such predictions—but I am firmly convinced that HUD should set an example for the rest of the market wherever it can.

Accordingly, I am pleased to announce, on behalf of myself and Don Johnson, the head of the Veterans Administration that effective tomorrow the maximum interest rate for FHA-insured and VA-guaranteed loans is being reduced from 8½ percent to 8¼ percent. And I assure you that if market adjustments to the new 8¼ percent ceiling and the interest rate outlook in the period ahead appear to make further reduction feasible, we'll do it without hesitation. My objective is to have FHA "lead a little."

Frankly, as the President points out in his September message on housing, the law should be amended to let the FHA and VA rates float and eliminate "points." the prepaid interest that actually hurts the buyer and certainly doesn't benefit the seller. But as long as we must operate under the present archaic system requiring the FHA and the VA to guess constantly as to what markets will do and peg an interest rate, I'll do my best to make it work.

Let me move on to Tandem. You will recall that in his message last Fall President Nixon announced a revived GNMA Tandem Plan to provide assured financing on FHA and VA insured loans bearing an 8½ percent stated interest rate for up to 100,000 units of new residential construction. We haven't done such business under that program. But the slow response proved an important point: the then shortage of funds for residential lending was only a part of the problem. Tandem assured the funds. But at the 8½ percent rate, there were relatively few takers. This says to me that through Tandem we've got to offer a better interest rate—substantially better.

Therefore, I am even more pleased to announce that effective tomorrow a revised and expanded Tandem Plan will authorize GNMA to commit up to $6.6 billion to purchase at 96 FHA and VA-insured mortgages on 200,000 units of newly-constructed single and multifamily dwellings, bearing a stated interest rate of 7¾ percent.

I don't have to tell you what a significant commitment this is . . . There will be real punishment on resale of these mortgages by GNMA if the mortgage money trends are the wrong way. Given the present slump in the housing market, however, we have little choice. It makes sense, and it must be done, both to help the home builder and the home buyer alike.

How effective will this new program be? I hope, I expect, indeed I am convinced that it will do substantial good. If Congress were to act promptly to remove some related constraints on the statute books, the new Tandem Plan could be assured of success. I am referring to the FHA ceiling on mortgage amounts and the loan-to-equity ratio limits. These provisions, however well advised they were when the law was last changed in 1968, just aren't realistic in 1974. As the President's September housing message states, these limits must be increased immediately.

What else can be done on this interest problem? For the months immediately ahead, I think the answer is "not much," but over the long term, "a lot." The key is to give housing funds a competitive edge against other demands for long-term money.

How do we do it?

One proposal would give depositors in savings and loan associations a tax break on interest earned. But this would only increase the reliance of housing on one sector of the financial market.

Don't get me wrong. Over the years, the S&Ls have done a good job of providing funds for housing; their health and growth are vital to the home buyer and the housing industry. And the President's proposals for financial institution reform aim to ensure that health and growth, including certain needed flexibility in making construction loans and achieving financial balance.

But what I want to see—and what I know all of you want to see—are effective ways of tapping every long-term credit source available, particularly when money is tight. That means opening a competitive wedge in all markets, not just with the savings and loan depositor.

The mortgage interest tax credit proposed to the Congress by the President would do just that. Under this proposal, the larger the proportion of total assets invested in residential mortgages, the higher the tax credit, up to 3½ percent when the mortgage proportion of the assets reaches 70 percent. If, for example, a bank already holds 8 percent of its total assets in residential mortgages, an increase of only 2 percent will give the bank a 1½ percent tax credit on the entire 10 percent, which results in a significantly higher yield on the incremental investment. That's quite an incentive.

Such a tax credit would also apply to pools of mortgages put together in the private sector. With the credit, such pools would have a substantial advantage in issuing their notes in the secondary market.

I know it sounds complicated. But it should work. Incidentally it's not cheap. Preliminary estimates indicate that even if mortgages do not rise above the level of, say, 1972, the subsidy involved, in lost revenues to the Treasury would be near $200 million, and the potential revenue loss is much more.

Moreover, the whole scheme would function without government bureaucrats. I can't say the same for other proposals I've heard—like the one that the Federal Government should restrict consumer credit for purchases other than housing, or restrict business credit, both for the purpose of forcing investment into housing. Who is the genius in Washington who would fine-tune such regulation? Is it really fair to the consumer to say Uncle Sam knows best? To say you really shouldn't buy as many home appliances or vacation trips, so enough money will be freed for housing?

Is it really in the best interest of the housing industry to restrict the credit needed by our industrial sector to conduct research or to improve productivity by investment in new plants and equipment? These things are vital to the better jobs and higher real incomes necessary to pay for better housing.

This brings me to the second problem I mentioned at the outset: inflation. Lenders feel they need higher interest rates to compensate for expected diminished purchasing power of the dollar when the principal comes back years later. Yet inflation affects not only interest rates but everything else too—land, materials and labor.

Equally important, inflation saps the demand for better housing when the potential home buyer has to spend more of his pay check for food, gasoline and practically everything else. We can and we must get inflation under better control. How?

As you know, food costs have been the biggest single culprit. The Administration has taken a number of steps that we expect to increase supply and moderate price hikes.

The soaring cost of fuel is another, newer culprit.

To hold down inflation, Federal spending must conform to reasonable limits. Easy to say yet almost five years in government have taught me how hard it is.

Every group, it seems, has its own cause—very often a perfectly legitimate one. But there is simply no way to give all groups the money they want without raising taxes or printing money, which simply means more inflation.

So we must establish priorities and set limits. That's what this annual budget battle is all about.

Incidentally, I just can't buy the proposition that an easy way out is available to us—that all we have to do is cut defense.

Without a strong defense, mutual reduction of arms is a pipedream. Without a strong defense position the free community of nations will not endure. Freedom, liberty, can too easily be taken for granted, especially when we have had it as long as we have. And I've sat in enough Cabinet meetings to know that we have whacked as much out of the defense budget as possible in favor of domestic program priorities. It's not a pleasant prospect—particularly when you have the job I have or Cap Weinberger's job at HEW—but we will need more money for defense than Congress appropriated last year, not less.

While we are on the subject of budget allocations, I would like to talk a little on the issue of subsidized housing for lower-income families. Whether we look at the decade of the '60s or go back to the '50s, it is clear that as a nation we have made remarkable progress toward the goal—first articulated by the Congress in 1949 and reconfirmed in the President's September housing message—of a decent home and a suitable living environment for every American family. The main reason for our success is the growth in jobs—higher real incomes—coupled with a strong housing industry and credit availability.

Notwithstanding this progress, however, many families still live in housing that by any standard is substandard.

The issue is how to overcome this problem. This is what the housing study we completed in September is all about.

I'm not going to try to explain in detail here why we concluded that we don't stand a chance of achieving our national housing goal for substantially all those still without decent shelter through the old programs. Chapter Four of the book incorporating the results of the study, a volume called *Housing in the Seventies*, does that better than I could here.

Suffice it to say that even if all the other negative factors were ignored, solving the housing problems of all those eligible under the old subsidy programs for lower-income families would cost, we estimate, some $34 billion a year. Allocating that much of the Federal budget to these needs just isn't possible. New approaches are necessary.

The Administration is committing some $200 million to the housing allowance—direct cash assistance—experiments. In this and other ways, we are attempting to devise a practical program to get at the basic problem—lack of sufficient income to pay for decent, safe and sanitary existing housing.

Even though this cash assistance approach would make maximum use of existing housing, the expenditure involved would be far greater than anything this Nation has seen before—an estimated $1½ billion for the first phase, covering the elderly poor, and an estimated $9 to $11 billion annually when the program is fully operative. But the difference is we would be helping the vast majority of the poor get better housing rather than helping a relatively small proportion get new housing while the rest are left to wait and wait.

This doesn't mean that we are standing dead in the water pending final decision on direct cash assistance, a decision scheduled for the end of this year or maybe early next year.

In addition to the 100 thousand-plus units under the old programs that are still being processed, another 200,000 units of subsidized housing were announced in the President's September housing message.

Approximately 70,000 of this 200,000 are allocated to meet bona fide commitments under the old programs. The balance, about 130,000, are earmarked for our revised Section 23 leasing program—50,000 units of existing housing and 80,000 of new construction.

In devising these new Section 23 programs, Assistant Secretary and FHA Commissioner Lubar and his people have been in contact with developers and others knowledgeable about subsidized housing. And the regulations will be published for comment tomorrow. These new programs, refined as we gain experience, and hopefully improved by the legislation we seek from Congress to modify them further, should avoid many of the flaws in the old programs and provide a sound interim approach while the work on better long-term approaches proceeds.

The budget for fiscal 1975, to be published shortly, will seek authority for an additional number of units for these new Section 23 programs. But the programs simply won't work without you. We need your help.

I have discussed tight money, high interest rates, inflation and helping the poor. Before I close, just a few words on the other problems I mentioned.

FHA processing. Once and for all, let me state it flatly: There will be a need for FHA for a long, long time. The private mortgage insurers perform an important function, and I will do all I can to foster the service they give. But for the foreseeable future, there will always be good mortgage risks that require FHA assistance.

One of my top priorities for the period immediately ahead is once again to provide timely FHA processing service in the offices that fail to do so. We know from the good performance of some offices that FHA can provide prompt service without sacrificing the important social goals built into the law, such as equal opportunity and environmental protection. Accordingly, on direct authority from me signed last Friday, Shel Lubar is putting together teams of experts—including representation from better offices—who, in coordination with the regional offices, will, in the weeks ahead, go directly into the area and insuring offices that appear to need the help and do what needs to be done.

For the longer term, Congressional adoption of some of the President's other proposals will also greatly assist and help streamline FHA operations. Co-insurance, the practicability of which was proved by VA long ago, will help. And it goes almost without saying that the greater your own sense of responsibility in selecting the projects you offer, the better your own work in the application process and in meeting your com-

mitments, the easier it will be for us to streamline our own procedures.

The environment. We have been working closely with the Environmental Protection Agency to get a better handle on the facts, to separate the real problems from the illusions and address them. And as expected, the NAHB staff has welcomed our overture to work with your organization along the same lines.

No growth. Some of the communities moving toward growth restriction have legitimate reasons. But others don't. Whether they like it or not, the baby boom of the post-World War II period is now becoming the family formation boom of the Seventies and early Eighties. These people must have homes where the jobs are, and we at HUD will work with you toward achievement of that goal.

Energy. I know the problems you face—the effect of the energy crisis on availability of materials, on fuel for construction, on Sunday driving to inspect homes, on the willingness of customers to buy while question marks hang over such things as heating and gasoline supply.

That's why I have brought Doug Parker on board to be my Assistant for Energy Affairs. I hope as many of you as possible get to meet and know him while we are here in Houston. Doug will work closely with Bill Simon's shop, with you and with others to reduce as much as possible the impact of the energy crisis on housing.

Let me close with what I said in my first line. I welcome the opportunity to be with you. I chose those words carefully. I didn't say the usual "It's a great pleasure to be with you." In the sense of satisfaction with the current state of housing affairs, it cannot be a pleasure—surely not for you and certainly not for me.

But I do welcome the opportunity to be with you.

I wanted to hear about your concerns at first hand. I wanted to discuss specific problems and predictions with you directly. And I wanted to present in person a partial solution at least to one of your principal current difficulties—interest rates.

There are, amidst the serious problems, some good signs. When I look at those family formations on the charts, at the basic strength of our economy, at its capacity to create more and better jobs (with all that means to the prospects for better housing) and at your demonstrated ability to provide that housing, I perceive promise for a high level of housing construction, not just for the balance of this decade, but also into the 1980s. And I pledge to the people of this country, and to you today, that as Secretary of HUD, I will do my utmost to help.

DR. LEWIS FOX, OF CONNECTICUT

Mr. RIBICOFF. Mr. President, few men have contributed more to solving the overall problems of health care in the State of Connecticut and in our Nation than Dr. Lewis Fox of Connecticut.

Lew is a close and respected personal friend of many years' standing.

The development and operation of our health care system depends on the dedication of individual men and women. Among these dedicated people, Dr. Lewis Fox stands out as an example of a man who has devoted himself selflessly to the care of others and to the teaching of young men and women to enter the health profession.

The University of Connecticut's Schools of Medicine and Dental Medicine are almost synonymous with the name Lewis Fox.

Lew was among the first to suggest that the University of Connecticut establish such schools. He served as a member of the site selection committee for the University of Connecticut Health Center and became the first faculty member of the school of dental medicine.

He served as dean of that school from 1963 to 1969, helping to shape its curriculums and recruiting its faculty.

From 1969 to 1973 Lew served as the school's first university professor and in 1973 became professor emeritus.

In December of 1973 the University of Connecticut's School of Dental Medicine Faculty Council unanimously passed a resolution commending Lew for his contributions to the University of Connecticut Health Center.

I am pleased to join with the council in paying tribute to Lew Fox. This citation is most deserved. I know that Dr. Fox will continue to serve the people of our Nation for many future years.

I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

RESOLUTION

Whereas, Lewis Fox served on the Professional Advisory Committee which first recommended that The University of Connecticut construct a Health Center including Schools of Medicine and Dental Medicine;

Whereas, Lewis Fox served as a member of the Site Selection Committee for the Health Center;

Whereas, Lewis Fox was the first faculty member and Dean appointed in the School of Dental Medicine;

Whereas, Lewis Fox served as Dean with diligence and imagination from 1963 to 1969, guiding the development of the academic programs of the School, the recruiting of its faculty and establishing the unique relationships which exist among the various administrative units of the Health Center;

Whereas, Lewis Fox served as the School's first University Professor from 1969 to 1973, continuing his studies of health care delivery in the United States and abroad and his contributions to planning and executing the academic programs of the School of Dental Medicine; and

Whereas, Lewis Fox accepted emeritus status with the University of Connecticut in 1973;

Resolved, That the Council of the School of Dental Medicine recognize the deep indebtedness of the faculty and students of the School to the untiring and inspired efforts of Lewis Fox in the development of the special nature of our facilities and programs; and

Resolved, That because of Lewis Fox's leadership during the establishment of the School and Health Center, we are confident that it will be possible to achieve the goals for which we all strive.

ARMY RESERVE COMPONENTS

Mr. THURMOND. Mr. President, a great deal of attention has been focused the past few months on the Reserve Forces as a result of recommended reductions by the Department of Defense.

Because of the great interest in this subject within the Congress and throughout the country I believe all would be served by inclusion in the RECORD of a recent position paper on the Army Reserve.

This paper was published by the Association of the U.S. Army and addresses Army Reserve Forces as they are today.

Mr. President, I ask unanimous consent that this outstanding work be printed in the RECORD at the conclusion of my remarks.

There being no objection, the position paper was ordered to be printed in the RECORD, as follows:

JUNE 18, 1973.

THE ARMY'S RESERVE COMPONENTS

INTRODUCTION

Throughout the various parts of AUSA's current analysis of our defense capabilities, we have been attempting to relate national security requirements with the forces and resources being made available to meet those requirements. The major reductions in the size of our active forces and in the purchasing power of the dollars allotted to defense raise the most serious question as to our true ability to meet the basic national defense commitments in this very volatile world.

The administration has consistently characterized the active forces provided for under the FY74 budget as "a baseline force—the minimum force that the President and the Secretary of Defense consider necessary to carry out national security objectives." In achieving this baseline force, the Administration has assigned far greater responsibility to the National Guard and the Reserve than has heretofore been the case and, for most units, assigned them an early readiness requirement considerably beyond anything that has been required in the past. The rationale in today's environment was to require that the Reserve Components meet certain of our national security requirements which heretofore were the responsibility of active duty forces. The fact that the Guard or Reserve combat battalion, for example, can be maintained for about 20% of the cost of an active duty battalion has, no doubt, had a very attractive appeal to the planners, who are trying to provide the maximum defense for the minimum money.

COMPARATIVE COSTS (SAMPLE ARMY UNITS)

Type unit	Active cost	Reserve cost	Cost percent reserve to active
Infantry Battalion	$8,824,100	$1,814,000	21
Armored Cavalry Squadron	12,089,900	2,752,000	23
Tank Battalion (Armored Division)	8,055,700	1,659,000	21

But as important as the cost factors are, they cannot be permitted to denigrate our defenses. Our concern is with our total defense capability and our actual ability to carry out the military requirements that our fluctuating national objectives may require. We do no service to either our country or the dedicated members of the Reserve Components if in fact our defense planning is not pragmatic and sets unrealistic goals for any of our forces.

We have indicated in our earlier papers our assumption that the basis for our strategic planning is based on the one and one-half war strategy, which we have previously described in detail. We need only mention our commitments in NATO, the precarious balance in Southeast Asia, the tenuous situation in the mid-East and the deteriorating situation in Latin America to suggest a climate in which complacency has no place. We could respond to none of these precarious situations without the firm back up of our Reserve Components. The active Army simply does not have sufficient tools to do the job. Of 21 Divisions, 8 are in the Guard. And in support elements, two thirds are in the Reserve forces.

This increased reliance on the Reserve Components is resulting in the provision of significant quantities of modern equipment, increased readiness training, new and larger support efforts from the active Army, additional technician manpower support and funding for accelerated provision of proper training facilities.

RESERVE COMPONENTS APPROPRIATIONS

[Dollars in millions]

Appropriation	Fiscal year— 1972	1973	1974
Army Reserve	$622	$706	$827
Personnel	(417)	(465)	(522)
Operation	(171)	(203)	(264
Construction	(34)	(38)	(41)
National Guard	927	1,077	1,224)
Personnel	(521)	(584)	(643)
Operation	(377)	(453)	(546)
Construction	(29)	(40)	(35)
Total	1,549	1,783	2,051

There is evidence from all sides that the Reserve Components are responding admirably to these challenges. For example, in recent testimony before the House Armed Services Committee, Major General Henry W. McMillan, President of the National Guard Association, had this to say:

"I can assure the members of this Committee that the Army National Guard and the Air National Guard are at the highest levels of readiness ever attained by civilian components. They are at levels considerably higher than those of two, three or four years ago. While we may not be, and no civilian component, I expect, ever will be, as ready as the First Marine Division or the best Army Division, we are very close to being as ready as any civilian component can be. We are capable, with very few exceptions, of carrying out our missions, capable of early response." Similar comments would be appropriate for many units of the Army Reserve.

Despite the many measures ongoing to support the Reserve Components, the security of the nation requires that we assure ourselves that the Reserve Components can in fact take up all the slack resulting from the severe reduction in the size of our active forces. As General McMillan and others have pointed out, there is so much that is better than it has ever been before that a sense of surface euphoria is hard to avoid.

Because we support an expanded role for our Reserve Components in the total force concept, there are several points we feel should be examined at this stage of our development and that is the purpose of this paper.

First, our citizen soldiers deserve more public understanding and esteem for the very difficult tasks which they have so willingly shouldered. Our Reserve forces may well be the most discussed and least understood segments of our national defense. We hope that from this brief examination a better appreciation of the true measure of their dedication and enthusiasm will emerge.

There are certain problem areas, such as recruiting and training, where the Guard and the Reserve need legislative support and hopefully we can make these needs more clearly understood.

There is not a widespread understanding of the improved measures to support the Guard and Reserve and of their training requirements and problems. We feel these should be considered as well.

We are concerned too that the missions assigned to our Reserve Components be consistent with their very substantial capabilities.

We have the highest admiration for the dedicated and ofter unheralded service of the men and women of our Reserve Components. It is our hope that by this detailed status report a wider appreciation may be obtained of their accomplishments, their problems and capabilities.

ORGANIZATION AND TRAINING

The purpose of the Reserve Components is to provide trained units and qualified persons available for active duty in the Armed Forces, in time of war or national emergency, and at such other times as national security requires. (10 U.S.C. 262)

To accomplish these purposes, the current Army National Guard and Army Reserve are organized into the following:

8 Combat divisions.

104 Non-divisional combat battalions and squadrons (including those contained in 21 separate brigades).

89 Field artillery battalions.

49 Engineer combat battalions.

11 Nike Hercules battalions.

133 Combat service support (logistic type) battalions.

And literally hundreds of combat service support units of company or detachment size.

We also have available a large pool of previously trained individuals in Individual Ready Reserve. While this is a fast diminishing pool, there were 795,000 people on these rolls as of April of this year. These individuals are not on a paid drill status but many continue their training by correspondence, summer camps and some, serving as mobilization designees, get on-the-job training.

The organized units of the Selected Reserve which we enumerated above are required to conduct 48 inactive duty training periods of 4 hours each, usually on a weekend and frequently back to back. Additionally, each of these units has two weeks of active duty annual training each year. Between 8 and 10 days of this active duty period is productive training, the remainder being required for travel to and from the training area, getting set up, etc.

In addition to these required training assemblies, many more hours are put in, particularly by the unit leaders, both commissioned and non-commissioned, on recruiting, administration and the thousand and one responsibilities of command for which there seem to be enough time.

Serious and productive efforts have been made over the years to upgrade the professional qualifications of the officer corps of the Reserve Components. Army Regulations require appropriate level Army service schooling up to and including the Command and Staff College for promotions. Many Reserve Component officers attend the Army War College or complete its non-resident courses.

Fortunately, almost all of the enlisted men have had at least four months (and most have 6) of active duty training or a combination of active duty and long Reserve Component service. Either correspondence courses or attendance at service schools, and sometimes both, are required for promotion in the higher grades. There exists an expanded core of trained and professional full-time technicians to assist the Reserve Component units with recruiting, supply, administration and maintenance.

But it should be clear that even with the expanded expertise and help, we are getting close to the optimum that can be maintained consistently by a group of hard-working, dedicated individuals who earn their livelihoods and raise their families on civilian employment.

Army Regulation 350–1 specifices training level objectives of Reserve Component units as attainment and maintenance of company or comparable level proficiency. The attainment of proficiency is supposed to be verified by the completion of applicable Army Training Tests at least every three years.

The company level training requirement should really be considered a floor, since such a program has a low level of productivity in mission-type training. Soon there will be a multi-level approach to training which hopefully may move a greater number of units to the attainment of battalion level proficiency. The fact that some units are maintaining battalion-level proficiency indicates that such training is feasible if proper leadership and management can be effected.

Company level training can be particularly debilitating to Battalion Commanders and their staffs—and even higher headquarters—if they are prone to become observers rather than participants.

Obviously, imaginative and productive training is essential to the development of the basic capabilities to carry out assigned missions. It is also an essential ingredient in keeping up the interest of the officers and men in the Reserve Components and has a great potential in helping retain personnel. In most areas, training today is more innovative and productive than ever before, and equipmentwise, the Reserve Components are in better shape. Overall, they have about 75% of the equipment they need for training, and most of it is modern.

An example of the more exciting training would be the overseas summer training for selected units. Last year there were 47 company-sized units at 8 foreign locations who were flown overseas for their active duty training. Not only does this prove an attractive incentive for those participating, but it has practical plusses as well. Training in the logistics of such a move is an important benefit, as is the working knowledge gained of foreign terrain and environment. And in most instances, the on-the-job training is of the highest order. Last year, for example, the 50th Maintenance Battalion of the 50th Armored Division, New Jersey National Guard, flew to Germany to provide direct maintenance support to the active Army's 3rd Armored Division then on field exercises. On the other side of the globe, a Reserve Medical Equipment Detachment was performing equally constructive on-the-job training in Okinawa.

This year the program is being expanded further, with some 58 units and approximately 4,600 Reserve Component personnel involved.

There is increased participation too by Reserve Component units in active Army, combined and joint exercises. A recent example was the Commander-in-Chief, Atlantic's exercise called "Exotic Dancer," which involved all services and included 17 units and 2,300 people from the Army's Reserve Components. As a matter of fact, the aggressor commander in the exercise was from the Kentucky National Guard.

There are a variety of other examples that indicate the improved quality and practicality of much of the training.

Reserve combat support units have actually taken over from the active Army the logistic support of some other Reserve Component units. This, of course, is the epitome of on-the-job training. It has its practical side, too. Such an operation at Camp McCoy, Wisconsin, last summer is reckoned to have saved the government some $300,000.00.

There has been much publicity given to a whole host of domestic action projects performed as training duty by Reserve Component units and personnel. Many of these have been community improvement projects for which Reserve Component equipment and expertise were particularly well suited.

Another innovative program is called Round Out. It involves active Army sponsorship and support of Reserve Component units. The affiliation between the Round Out units is one of year-long association with the view that on mobilization these units could function as part of their active Army sponsor group. During annual summer training, each Round Out battalion is assigned a sponsor unit from the active Army units to assist in and evaluate training. During the remainder of the year, training teams from the

active Army units travel to the home station of the Round Out units to continue training assistance. Four USAR battalions and 2 companies are associated as Round Out units with the Armored Divisions at Fort Hood, as are 1 brigade and 6 battalions from the Army National Guard. In Hawaii, the 29th Infantry Brigade (ARNG) and the 100th Battalion, 442nd Infantry (AR) will not only train with the active Army's 25th Infantry Division, but will become part of the fighting unit on mobilization.

One of the problems with Round Out stems from the varying degrees of readiness that will exist between the Active and Reserve elements of the same unit. Additionally, at this time there probably exists within the system about one-half of the TO&E equipment which our Reserve Components would require on mobilization. Much of this may not be in the hands of the units—and properly so, since they are not staffed adequately to care for all of it. We need to insure that these stockages continue to be built up so that the required equipment may be available immediately upon mobilization.

Although only a comparatively few units have had the opportunity yet to participate in some of these innovative training activities, we see that a viable training program for Reserve Component units is feasible, but clearly over the long haul more support from the active establishment will be needed. The Army is already making greater efforts to provide just that.

As part of the major reorganization that the Army is now implementing, the Army will have more active Army personnel working directly with the Reserve Components to solve their specific problems. These new relationships to be operable this fall will place primary responsibility for training and readiness support of the Reserve Components on the commanders of each of the three CONUS Armies which will operate directly under the Army's new Force Command.

Each of the Armies will have assigned several Army Readiness Regions to assist all of the Reserve Component units in each zone of responsibility. There will be 9 of these in all. Active Army personnel charged with these functions are being selected for their expertise in specific areas and will be available for shoulder-to-shoulder training with those Reservists needing their particular help. They will be organized in subordinate groups and teams. The Readiness Region people are intended to be "doers" and "specialists" in hands-on training—not staff officers. They will not be involved in routine administration.

The regions will call on Active Army units and schools for additional professional help as particular circumstances warrant.

Advisors will continue at each state headquarters, at each major unit headquarters, and in some isolated instances at smaller headquarters. However, most of the advisors assigned to battalions or small units will be withdrawn. The spaces involved will be assigned the Readiness Regions and the Readiness Groups, so that active Army assets may specialize in helping those units who need it most.

This new approach does not rely solely on additional active Army assistance. The Reserve Components will be called upon to do more. Elements of some of the training divisions will be designated as miniature maneuver commands, charged upon request of Region commanders with preparation of training plans, exercises and training tests for Guard and Reserve units, thus freeing these unit commanders from time-consuming preparation in an environment where the clock is the tyrant. Other training divisions, during their drill periods, will provide training in individual military specialties for unit members in their area.

PROBLEM AREAS

Thus far we have described a number of the conditions which have brought our Reserve Components to standards of preparedness beyond anything we have known in the past. And we have enumerated some of the actions which presumably will contribute to the growing viability of their training programs. But what of their problems?

The major problems in the Guard and the Reserve today are not a shortage of serviceable equipment or lack of meaningful missions, although much remains to be done in providing modern equipment for Reserve Component units. The more pressing problems are to continue improvements in Reserve training and to meet manpower requirements without the pressure of the draft.

At this moment in time, recruiting and retention—the maintenance of strength—are the overriding problems. Statistics abound to describe the dilemma and we've used some here to illustrate.

Strength takes on such importance because it is the focal point of a unit's ability to conduct a viable training program, maintain its equipment and most importantly of all, to carry out its mission if called upon.

It should be borne ever in mind that the *authorized strength* as of FY73 of the Reserve Components constituted 45% of the Army's total force manpower requirements.

To be sure that this strength problem is more clearly in focus, consider the following:

Congress mandated by law that the minimum average strength of the Army National Guard would be 402,333. The Army Guard is projected to end FY73 with a strength of 376,704, some 25,269 short of the mark. The Department of Defense is requesting a strength of 379,144 for the Army National Guard during FY74, some 23,189 below the minimum set by Congress.

In the case of the Army Reserve, the Congressionally established minimum strength was 261,300. The USAR is projected to wind up FY73 at 229,000, down some 32,300. For FY74, DOD is asking for 232,591 for the Army Reserve, which is 28,709 below the Congressional minimum.

These reduced requests for manpower authorizations by the Department of Defense represent a more pragmatic assessment by the Department of what the manpower problem is and how difficult it will be to solve. Defense leaders have been adamant in their testimony on these lower strength requests that they do not want the size of the Reserve Components to be smaller. They point out clearly that no priority missions have been eliminated. What they are asking for is a floor upon which they hope to rebuild the strength.

The full TO&E strength for the force structure of the Army's Reserve Components is 711,000. The Congressionally mandated minimums quoted above represents about 93% of the actual TO&E strengths of these units. On mobilization, shortages would presumably be made up of fillers from the Individual Ready Reserve we mentioned earlier.

The actual strength of the Army's Reserve Components at the end of FY73 represented 85% of TO&E. We mention the percentage of TO&E only because it indicates the built-in shortage of people available even if the Reserve Component units were at the full mandated strength so it gives further urgency to additional shortages and the ability of a given unit to train and function effectively.

Another way to view the current manpower challenge is to point up that to achieve the authorized strength of roughly 660,000 in FY74, the Reserve Components would need 127,000 new people. 140,000 would be needed in FY75 and over 160,000 in FY76.

Recruiting efforts are being increased. Part time recruiters have been trained in each unit, full time supervisors have been authorized in each major headquarters and full time liaison NCOs are stationed in each Recruiting Main Station of the Army's Recruiting Command, but recruiting alone will be difficult. Among the additional tools that would be helpful would be the speedy enactment of incentives proposals now before Congress—particularly the proposed enlistment and reenlistment bonuses as well as the full-time coverage under the Serviceman's Group Life Insurance Program.

Allied with the strength problem is that of time available for participation in an increasingly active Reserve Component training program. This requires understanding at home and practical support from employers. AUSA has cooperated in a nationwide program to encourage this support on a continuing basis. Great efforts are required to keep this a manageable problem.

We have laid considerable emphasis on training because that really is the main objective in peacetime. Not only do the Reserve Components need imaginative programs, but they need also adequate nearby areas in which proper training can be conducted. While this has not been a serious problem as yet, there continues to be a shortage of accessible weekend training areas for many Reserve Component units.

DOD indicates that at least 74 company-sized Reserve Component units do not have adequate weekend training areas. However, both the recent and possibly future base closings may impact unfavorably in this area, as does the President's Legacy of Parks Program.

There is underway in the Federal government a very vigorous program to take from the military those lands not being fully utilized and turning them over to the Park Service. Obviously many training areas used by the Reserve Components are not in full time use, but are absolutely necessary for weekend training or summer camp or both. It should be said too that some of the training areas now being used are only marginally adequate. Both the General Services Administration and the Federal Property Review Board have been more than zealous in declaring military lands as under-utilized and therefore eligible for transfer to the park program. Fortunately, the Real Estate Sub-Committee of the House Armed Services Committee, under the chairmanship of Congressman Otis G. Pike (D-NY), has been more sympathetic to the Reserve Components' needs and has kept this transfer program in bounds. Unless there are further base closings, the 86 Federal and 55 state camps now used for annual summer training should not be affected.

We have touched upon the debilitating effect on training of personnel shortages. We should mention, too, the impact of the all out recruiting effort currently underway. Some commanders feel that already a disproportionate amount of their time and effort goes into this channel and that training is getting shortchanged.

There is growing evidence that the present 6-year enlistment in the Reserve Components should be shortened. Young people just don't want to commit themselves to such a long contract. Similarly, it may not be feasible to continue a 6-month active duty basic training period. It may be necessary to accept a shorter period which will be less disruptive to the individual.

Certainly one flaw in the whole system is the fact that we do not now have an adequate method of determining unit readiness. It is very difficult to get a good qualitative measurement and while we have been greatly preoccupied with method, the fact is that our present system for evaluating is not reliable. Many of our active units would not meet the readiness criteria. And some fought successfully in Vietnam when in fact they

would not have met standards presently prescribed.

So, while we talk about the highest goals of C–1 for officers, C–2 for enlisted men and C–3 for equipment, what we really want to know is how fast a unit can be mobilized and how quickly it can be brought up to fighting trim after mobilization. This we cannot measure with any certainty as yet.

CONCLUSION

All that we have said so far supports the contention that the Reserve Components are in fact at the highest levels of readiness ever attained by civilian components. Certainly they have more trained men, much more equipment and better facilities than at any time in history.

The question is can they do the job required of them on mobilization in the time allotted to them by the strategic planners? At this point in time, it is most problematical that any of the major combat units scheduled for the earliest deployment could come close to meeting the planner's timetable. Secretary of the Army Froehlke in his testimony to the House early this year said, "We still have a long way to go before our Reserve Components are sufficiently ready." (See Figure 1, Appendix for a historical comparison of the problem.) There is, for example, a long way to go before all the equipment Reserve Component units would need on mobilization can be available. Training is not that far along in most units. And it is yet to be proven that even with the recruiting tools that have been requested that adequate strength levels can be maintained.

In all of this, we have taken the statements of our political leaders at face value that the Guard and Reserve units required will be mobilized promptly in any future national emergency. The early mobilization of such units is very basic as an ingredient in our defense planning, since there are certain essential time cushions that are required for even the best-trained units to move from civilian status to full time military duty. No amount of planning or preparation can eliminate this time problem entirely. To minimize the problem, timely warning and prompt decisions will be needed.

But basically we are concerned that there has been in defense strategic planning an over-assessment of civilian component potential. Somewhere between the low level of readiness that for many years prevailed in most elements of the Reserve Forces and an unrealistically high level of readiness that is frequently demanded and sought after is the level of readiness that a civilian component is capable of attaining and maintaining. We have to accept these readiness ceilings for the simple reason that these organizations are civilian components and cannot devote full time to military training and practice.

To set unrealistically high levels of readiness for Reserve Forces and to assume for war planning purposes the attainment of those levels, in an attempt to satisfy strategic requirements, creates a false premise and undermines the validity of our defense planning.

The Minuteman concept may be great for tradition, but subliminally it perpetuates a dangerous myth. It connotes a simplicity to citizen-soldiering that certainly is not now and never really has been the case. Lack of discipline, equipment, training and, above all, support caused the greatest hardships and excessive casualties on the original Minutemen. Nor were they able to accomplish their mission until many of these shortfalls were overcome. The symbol we need for today's citizen-soldier should reflect the same dedication and patriotism, but also should connote the well-disciplined, highly-trained and well equipped individual properly organized to contribute rapidly and effectively to his country's defense. There is every indication that the Reserve Component leadership at all levels is working diligently to acquire the greater skills and readiness that today's world requires.

The role of Reserve Components in our national defense is highly essential and deserves our fullest support. Their role in our defense structure should be fully realistic. We believe that our strategic planning should be reviewed to make sure that the degree of readiness we assign to our Reserve Components is within their capability.

We believe further that the truly dedicated efforts of the men and women who are the members of our Reserve Components are deserving of our fullest and continuing support in their demonstrated support of their citizenship.

FIGURE 1.—SELECTED FEATURES OF RECENT MOBILIZATIONS

Features	World War II		Korea		Berlin 1961		Vietnam 1968	
Scope	M=D—15 mos; total mobilization, major deployments		M=D; partial mobilization, major deployments		No hostilities; small partial mobilization, no major deployments		M=D+36 mos; extremely small partial mobilization, no major deployments	
Premobilization situation:								
Regular Army	3-div force—185,000.		10-div force—590,000.		14-div force—860,000.		18⅔-div force—1,500,000.	
Reserve components	Army Reserve	National Guard	Army Reserve	National Guard	Army Reserve	National Guard	Army Reserve	National Guard.
Basic force structure	27 divs	18 divs	25 divs (7,944 units).	27 divs (4,836 units).	10 divs (4,398 units).	27 divs (4,497 units).	3,482 units [a]	8 divs (3034 units). [b]
Personnel strength	119,733	199,491	Total—600,417	Authorized—350,000.	Total—893,747	Authorized—400,000.	Total—217,984	Authorized—400,000.
			In units—184,015.	Assigned—324,761.	In units—301,796.	Assigned—393,807.	In units—261,957.	Assigned—411,419 (Average FY68).
Recruitment for units	Voluntary	Voluntary	Voluntary, draft motivated.	Voluntary, draft motivated.	Voluntary, draft motivated.	Voluntary, draft motivated.	Voluntary, draft motivated.	Voluntary, draft motivated.
Unit training (annual)	Limited AT	48 paid drills, •AT.	Paid drills, AT	48 paid drills, •AT.	48 paid drills, •AT.	48 paid drills, •AT.	48 paid drills, •AT; SRF–72 (later 58) drills.	48 paid drills, •AT; SRF–72 (later 58) drills.
Facilities	None	Inadequate	Inadequate	Inadequate	Inadequate	Inadequate	Inadequate for unit training.	Inadequate for unit training.
Materiel	None	Extreme shortage	Extreme shortage	46% of TOE	Improved quantities but contingency and training.	Improved quantities but contingency and training.	Inadequate	Inadequate.
Mobilization situation:								
Number of units mobilized	None	18 divs and 136 other units.	969 company-sized.	8 divs, 3 RCT, and others (714 company-sized).	1 training div and others (444 company-sized).	2 divs, 1 ACR, and others (446 company-sized).	1 inf bn and 41 other units.	2 inf bdes (bdes and other unist totaled 34).
Personnel:								
Number mobilized	136,000	297,754	241,500	138,500	68,883 (30,056 in units).	44,371	7933 (includes fillers).	12,234.
Percent of TOE strength at induction.		41–56 [d]	Most—individuals	34–55 [d]	67	62–69 [d]	82	89.
Percent MOS qualified at induction.	na	na	Most—experienced veterans.	27–46 [d]	67	67	85	85.
Unit training completed at induction.		None	None	None	None	None	None	None.
Facilities		Inadequate initially.	Inadequate initially.	Inadequate initially.	Adequate	Adequate	Adequate	Adequate.
Materiel		Totally inadequate	Limited	35 percent of TOE	Major shortages	50 percent of TOE. [d]	REDCON C–4	REDCON C–4.
Postmobilization situation [f]:								
Personnel:								
Fill requirement		197,533 (for divs)		96,100 (for divs)	15,234 (for units)	9830 (for divs)	698 (for units)	1512.
Time to fill		7 mos [d]		2 mos [d]	2 mos	3 mos [d]	Up to 5 mos	Up to 5 mos.
Training (divisional):								
Requirement, weeks		44 (later 32)		28	Varied [x]	27 compressed to 13. [d]	7–8 [x]	15 [x].
Completion, weeks		Average 120		32–35	Required full unit ATP.	13 [d]	7–15 [x]	15–17 [x].
Materiel		Adequate by 1942		Improvement during unit training.	Continued shortages.	60 percent within 3 mos. [d]	REDCON C–1 within 60 days.	REDCON C–1 within 60 days.

[a] Units include 13 training divisions in 1961 and 1968, and 3 separate inf bdes in 1968.
[b] Units include 18 separate inf bdes.
[c] Paid drills 2 hr weekly; after Vietnam buildup increased to 4 hr and MUTAs.
[d] Applied to divisions but is representative of all other units.
• Not available.
[f] Period from arrival at mobilization station to completion of training cycle.
[x] Army Reserve nondivisional units and/or National Guard inf bdes.

FERTILIZER SHORTAGE

Mr. HASKELL. Mr. President, a recent Senate Agriculture Committee report indicated that about 30 percent of the total production of food and fiber in this country is a direct product of the application of fertilizer, and U.S. grain stocks are currently at near-record lows. These two facts underlie an approaching supply-and-demand imbalance which has potentially enormous consequences for U.S. consumers and citizens in countries overseas that depend on our food exports.

Over the past few years the amount of acreage kept idle or set aside has been drastically reduced, and in 1974 agricultural production goals call for maximum production. Approximately 20 million more acres of land will be in production this year than last.

The American farmer is ready to meet these goals, but he is hampered by his inability to acquire needed agricultural supplies, particularly nitrogen and phosphate fertilizer, at prices he can afford.

According to Agriculture Department figures, retail prices of fertilizers have increased over October 1973 prices from a range of 26 percent more for potassium chloride to 71 percent more for anhydrous ammonia. There are no assurances that the situation will improve for farmers in coming months.

The fertilizer industry in the United States has expressed its willingness to meet these challenges, but for a variety of reasons, including past price control policies, inadequate fuel supplies, transportation problems, and a virtual halt in new plant construction, it appears it will be unable to do so.

The Department of Agriculture estimates shortfalls of 1 million tons of nitrogen and about 700,000 tons of phosphate material. The Fertilizer Institute reports that while they expect to supply about 5 to 8 percent more total fertilizer tonnage during the current year than last year the industry will still fall short of demand by 3 million tons of nitrogen material and 1.5 million tons of phosphate material.

I have talked with knowledgeable spokesmen in southeastern Colorado who are very concerned about this situation and who are afraid there will be a substantial shortage of fertilizer for the coming growing season.

I want to go on record in strong support of the resolution adopted by the Senate urging that those agencies of the Federal Government responsible for the allocation of materials used in the production and distribution of fertlizer give the highest possible priority to fertilizer in the allocation programs. I would urge these agencies to act promptly on the Senate's request. I agree with my colleagues who have already spoken out on this issue that if there is indeed a serious fertilizer shortage in the United States there will be a food shortage not only in this country but elsewhere in the world such as we have not seen before. I think we must take every precaution to insure against the possibility of hunger both at home and abroad.

ISSUES IN PROCUREMENT REFORM LEGISLATION

Mr. CHILES. Mr. President, there now seems to be little doubt that legislation to create an Office of Federal Procurement Policy (S. 2510) may generate controversy when it is considered by the Senate. But before the debate begins, I would like to share with my colleagues a very perceptive and objective evaluation of the situation done by Mr. James Phillips of the National Journal, and particularly the announced opposition of the Defense Department.

I have to say that I wholeheartedly agree with the Administrator of the General Services Administration, Art Sampson, who served along with me on the Procurement Commission when he says:

> Defense thinks someone wants to interfere with their specialized procurements like fighter airplanes. Nobody wants to do that. So the Pentagon is afraid of a bogeyman that doesn't exist. It's the old thing about change. The Pentagon's position—that the status quo is good enough—is just hogwash, pure hogwash. We need an awful lot of reform in procurement policy.

I think we need to look back over the long and thorough legislative history of S. 2510—back to initial hearings in 1966; back to the creation of the Procurement Commission in 1969; back through the 2½-year study; back through the Commission's No. 1 recommendation to create a central procurement office; back through the 5 days of hearings held by my Procurement Subcommittee, and the unanimous support of all but some executive agencies. This is not exactly a shaky record to stand on.

The facts remain that procurement reform is sorely needed; the problems are there wasting money every day and they are not just Defense Department problems, they are Government-wide problems that Defense could not solve if they wanted to. A central procurement authority, with statutory backing is what is needed, and nothing less will do more than massage the status quo. As I said when we opened our hearings:

> The vagaries of time and the variability of executive orders are too great to trust so important a function as the expenditure of a quarter of the Federal budget to the good intentions of bureaucrats.

To update the National Journal article, I should note that S. 2510 passed the full committee on February 6 by a unanimous vote and that 12 Senators have joined me in cosponsoring the bill.

Mr. President, I believe that procurement reform is of vital importance to Congress, small and large businesses and to the taxpayers of this country. Legislative action is of the utmost importance if procurement reform is to be of a lasting nature.

I ask unanimous consent that there be printed in the RECORD a copy of the article by Mr. Phillips.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

OVER PROCUREMENT OFFICE

(By James G. Phillips)

Battle lines are taking shape in the Senate over legislation to create a centralized office to oversee federal purchases of goods and services worth almost $60 billion a year.

The Defense Department and its supporters in Congress are dead set against the new procurement office, which they view as a threat to the Pentagon's own extensive procurement bureaucracy. Defense purchases account for more than two-thirds of all federal procurement.

But the General Services Administration (GSA), which does much of the buying for other federal agencies, and the Small Business Administration (SBA) are supporting the proposed office. A showdown could come on the Senate floor by the end of February.

Now ready to report the legislation is the Senate Government Operations Committee, which has been studying procurement reform proposals since October.

On Dec. 4, a Senate Government Operations Subcommittee on Federal Procurement, chaired by Sen. Lawton Chiles, D-Fla., approved a bill (S 2510) to establish the procurement office in the White House—either in the Office of Management and Budget (OMB) or as a separate agency. "I don't expect any problems in getting this bill past the full committee," Chiles said in an interview.

But a senior Pentagon official, who asked not to be identified, said the Defense Department is confident that Pentagon supporters will stop the bill from passing if it reaches the Senate floor.

"The Defense Department's opposition to this legislation extends to Congress," the official said. "I don't think there is any assurance that this bill will pass."

S 2510, co-sponsored by Chiles and Sen. William V. Roth Jr., R-Del., the ranking minority member of the procurement subcommittee, would implement the major recommendation of the Commission on Government Procurment, which early last year produced 149 suggestions for changing the way the government buys products and services. (*For reports on the commission's recommendations, see Vol. 5, No. 21, p. 745, and No. 25, p. 897.*)

DICHOTOMY

The differences between the Pentagon and the GSA on the issue of a procurement office flared into the open during November hearings of the Chiles subcommittee on S 2510.

Arthur I. Mendolia, asistant Defense secretary for installations and logistics, told the subcommittee that the proposed office merely would create unnecessary red tape for the Pentagon.

Mendolia said that Defense contractors view the Pentagon's procurement regulations as "fairly unchanging (rules)they can understand."

Mendolia endorsed an OMB proposal to defer legislation pending a tryout period for an OMB procurement coordination office to be established by executive action. The coordinator had not been appointed as of late January. (*For background on the OMB proposal. see Vol. 5. No. 30, p. 1110, and No. 42, p. 1572.*)

Said Mendolia: "I think we should apply the 'fly-before-buy' philosophy here to the evolution of improvements in procurement in much the same way that we in DOD apply it to weapons system acquisition."

But in GSA's view, a procurement policy office would be ineffectual without a statutory base to give it prestige and permanence. "I am convinced now," testified GSA Administrator Arthur F. Sampson, "that at some point we are going to have to have legislation to support an Office of Federal Procurement Policy." Similar testimony was presented by the Small Business Administration.

"I do not think we are going to get the major reforms that are required by maintaining the status quo, no matter how you change it," Sampson said.

Agencies had "great fears" about the procurement office, some of which were "unfounded," Sampson said.

Expounding on this topic in a subsequent interview, the GSA chief said, "Membership of the office has got to be constituted so that Defense, for instance, feels they're represented. They've got to feel that they're not just having policy instituted by people who don't understand their business.

"Defense thinks someone wants to interfere with their specialized procurements like fighter airplanes. Nobody wants to do that. So the Pentagon is afraid of a bogeyman that doesn't exist. It's the old thing about change." Sampson said, "The Pentagon's position—that the status quo is good enough—is just hogwash, pure hogwash. We need an awful lot of reform in procurement policy."

Congressional aides said that before the Chiles hearings, Sampson urged the Administration go into the hearings with its own bill to set up the procurement office—as a ploy to get a share of the credit for procurement reform, which otherwise might go solely to Congress.

But Sampson's proposal was shot down by Deputy Defense Secretary William P. Clements Jr., who persuaded OMB Director Roy L. Ash to stick with the proposal for a procurement coordinator set up by executive action.

"I see no useful purpose this legislation could serve as far as DOD is concerned," Clements said in an interview.

INDUSTRY STANCE

Industry and professional associations testifying before the Chiles subcommittee unanimously favored the immediate passage of legislation to establish the procurement office.

Leading groups favoring the legislation included the Aerospace Industries Association of America, the National Security Industrial Association and the Electronic Industries Association.

SUBCOMMITTEE ACTION

"The commission report is getting older every day," Chiles said in concluding the hearings. " 'Fly-before-buy' has already taken place as far as DoD's experience."

The subcommittee rejected OMB's proposal to defer action and unanimously approved S. 2510. (Members of the subcommittee, other than Chiles and Roth, are Democrats Walter Huddleston of Kentucky and Sam Nunn of Georgia, and Republican Bill Brock of Tennessee.)

To assuage Pentagon fears that the procurement office would mushroom into a giant bureaucracy, the subcommittee amended the bill to limit the office's size and duration. The office would have a five-year authorization, after which Congress would decide whether to continue it. Its first-year budget would be limited to $4 million. The office would be prohibited from doing any actual procurement.

Its purpose, the bill says, would be "to provide over-all leadership and direction, through a small but highly qualified and competent staff, for the development of procurement policies and regulations for executive agencies in accordance with applicable laws."

EXECUTIVE ACTIONS

The executive branch is moving to implement many of the procurement commission reforms that do not require legislation.

Systems purchases

An interagency task force recently endorsed the basic concept of the commission's proposals for changes in the purchasing process for major weapons and civilian systems (such as mass transit and ocean navigation systems).

The interagency task force on system acquisition, in a Dec. 31 report to OMB, endorsed most of the commission's suggestions in that area, even though it said there are "valid differences" in systems purchasing policies of different agencies.

The task force's only serious reservation concerned the extent of implementation of a commission recommendation for alternative systems concepts, which the task force said could produce "a potpourri of systems . . . which would present more options than might economically be pursued."

The commission recommended strengthening the acquisition process for weapons and other major systems by emphasizing competition for alternative approaches at the outset of the developmental process to minimize occurrence of cost and performance problems downstream. (Under today's process in the Pentagon, for instance, service systems commands (developmental offices) develop a weapons concept, such as a plane of given speed or range capability, and then open the program for competition. Under the commission's proposal, companies would be asked to design their own concepts of what type of weapon—a plane, helicopter or artillery piece—would be best for the job at hand.)

The task force said that to avoid excessive expense under this approach, the competitions should be held only when clearly feasible.

Among other major recommendations in this area, the commission called on agency heads to frame "mission needs," such as close air support, prior to a decision on what type of weapon to seek and to bring Congress into the picture at this point—much earlier than is now the case—to review the mission statement in terms of the nation's needs, goals and available resources. And it called for heightening competition for major systems awards by encouraging small firms to propose alternative systems concepts.

The task force report, which must be reviewed by individual agency heads, including the Defense Department, Atomic Energy Commission, Transportation Department and National Science Foundation before final approval, fully endorsed the earlier involvement by Congress in the acquisition process. It adopted the recommendation on mission statements, subject to the "recognition that there are limitations in making long-range projections of mission capabilities, deficiencies, total mission costs, etc.," and the recommendation on soliciting increased competition on the part of smaller firms, provided the solicitations were limited to "qualified" companies.

GSA move

The GSA has adopted—subject to congressional approval—a commission recommendation that it charge its governmental customers the full costs of items they buy from GSA. The aim is to force agencies to shop around to determine if they can buy items cheaper on the private economy than they can from GSA.

Under existing procedures, GSA does not pass on its own overhead costs, such as warehousing, but bills agencies only for the cost of the merchandise and its transportation expense.

The new system, which has a target date of July 1, 1975, is known as "total economic cost" or "industrial funding." Under it, GSA's Federal Supply Service (FSS), instead of getting annual appropriations from Congress, would be financed out of the proceeds of goods and services it sells to agencies. These range from pencils and light bulbs to highly sophisticated civilian aircraft.

"Industrial funding would make the Federal Supply Service work a hell of a lot harder to keep costs down," FSS Commissioner Michael J. Timbers said in an interview.

"We'll be charging the full costs to the agencies and they'll turn to the private market if our costs get out of hand. Secondly, Congress will get a better picture of other agencies' budgets since GSA appropriations will no longer cover FSS overhead costs."

Timbers said the change also will force FSS to look hard at its central warehouse system to determine if it is more economical to procure items for agencies locally—at the point of use—than to stock them in regional warehouses. "The trend will be to less warehousing," Timbers said.

Implementation of the proposal will require amendment of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) which governs GSA procurement. Timbers said he expects the Administration to submit the bill by spring and that he does not contemplate any problems for it on Capitol Hill.

GAO report

The General Accounting Office (GAO) on Jan. 31 told the House Government Operations Committee that executive branch task forces made "considerable progress in recent months" in proposing policy positions on procurement commission recommendations. By the end of 1973, the GAO found, executive task forces had presented position papers for agency review on 79 of the 149 commission proposals, as opposed to three as of mid-August 1973.

To speed congressional action, the GAO recommended that the House Government Operations Committee consider establishment of a separate subcommittee—such as the Chiles subcommittee in the Senate—to handle procurement matters.

After holding extensive hearings on procurement reform last summer, the House Government Operations panel deferred further action because of the press of other business such as government reorganization plans. According to committee aides, the panel will again take up procurement reform as soon as the Senate acts on it. The committee chairman, Rep. Chet Holifield, D-Calif., who served as vice chairman of the procurement commission, pledged last summer that "I will do everything in my power to see that the public gets a dividend on the commission report."

LITHUANIA

Mr. DOMINICK. Mr. President, February 16 marked the 723d anniversary of the founding of the Lithuanian State and the 56th anniversary of the establishment of the Republic of Lithuania. Americans of Lithuanian origin and descent will commemorate this event through the Nation.

At this time when the word "détente" appears so often and the reality so rarely, Lithuania continues to present a dramatic example of the constant thrust of Soviet expansionism and Russian imperialism.

Lest we forget, Mr. President, on June 15, 1940, the Soviet Union formally annexed Lithuania and started mass deportations to Siberian slave and labor camps. During June 1941, the Lithuanian people succeeded in getting rid of the Communist regime in the country; freedom and independence were restored and a free government reestablished. This free government remained in existence for more than 6 weeks, until Lithuania was overrun by Nazi Germany, who suppressed all the activities of the free government and the government itself. Nazi Germany held it until 1944, when the Soviets expelled the Germans and reimposed their rule.

Lithuanians have never since been free or independent.

Through direct control of foreign affairs, economic planning, defense, currency, and foreign trade, the Soviet Union has endeavored to wipe out not only Lithuanian independence and freedom, but also their very heritage. More than one-fourth of Lithuania's population has been exterminated or relocated and its culture continues to be stifled by the imposition of Russian customs and dictates. Solzhenitsyn's "The Gulag Archipelago" is telling testimony to life under the Soviet system.

Nonetheless, the indomitable spirit and the spiritual and ethnic strength of the Lithuanian people stands today as an example to all people who are striving for self-determination and their national heritage. The Lithuanian World Congress, meeting in August 1958, declared unanimously that "Lithuanians continue fiercely resisting the alien rule" of the Soviet Union, and that Lithuanians "have not and never will accept Soviet slavery."

The United States has never recognized the forcible annexation of Lithuania by the Soviet Union and continues to accredit diplomatic representatives of the free government of Lithuania. Since June of 1940, when the Soviet Union first took over Lithuania, all the Presidents of the United States have stated, restated, and confirmed this nonrecognition policy.

Unfortunately, Mr. President, no actions have followed our fine words.

In our attempts to give some meaning to "détente," we should negotiate to obtain for the people of Lithuania—and for the people of all captive nations—the basic freedoms we enjoy. An enduring peace—or détente—cannot be attained until the people of Lithuania and of all the captive nations are free to determine their own destinies to accord with the United Nations Declaration of Human Rights.

MONTHLY LIST OF GAO REPORTS

Mr. METCALF. Mr. President, each month the Comptroller General issues many reports and decisions concerning the operation of the Government, legislative recommendations, and election law compliance. These reports are often prepared at the request of Members of Congress. Fortunately, the General Accounting Office summarizes the reports and decisions issued during the preceeding month. The monthly list is very useful, particularly as a reference to current GAO activity. Therefore, as I have done in the past. I again ask unanimous consent that the last three "Monthly Lists of GAO Reports" be printed in the RECORD.

There being no objection, the lists were ordered to be printed in the RECORD, as follows:

MONTHLY LIST OF GAO REPORTS: COMPTROLLER GENERAL OF THE UNITED STATES—VOL. 7, NO. 11, DECEMBER 1973

COMMERCE AND TRANSPORTATION

Limited Success of Federally Financed Minority Businesses in Three Cities. Small Business Administration, Office of Minority Business Enterprise, Department of Commerce. B–149685 of November 8.

Neither SBA nor OMBE had ever examined the factors contributing to success or failure of minority businesses assisted by SBA loan programs. Minorities make up about 17 percent of the Nation's population and about 4 percent of the Nation's businesses.

Of 845 minority-owned businesses receiving SBA loans from its Chicago, Los Angeles, and Washington district offices during FY 1969 and 1970, GAO classified 27 percent as failures, 25 percent as probable successes, and 17 percent as undeterminable.

Lack of managerial capability of the owner was the sole reason for failure of about 30 percent of businesses classified as failures or probable failures and a contributing reason for failure or probable failure of an additional 39 percent.

Foreign Visitor Travel to the United States Can Be Increased. United States Travel Service, Department of Commerce. B–151399 of November 12.

In 1972 travel receipts from foreign visitors to the United States reached $3.2 billion, while travel expenditures by Americans abroad climbed to $6.3 billion.

Although the U.S. travel receipts have increased steadily, since 1969 the U.S. share of international travel has deteriorated gradually in both number of visitors and travel receipts.

GAO suggested USTS consider developing and promoting competitive package tours and other travel programs in the U.S.

COMMUNITY DEVELOPMENT AND HOUSING

Administrative Problems Experienced in Providing Federal Disaster Assistance to Disaster Victims. Department of Housing Urban Development, Department of Transportation B–167790 of November 5, released Novemebr 8 by the Chairman, Subcommittee on Investigations and Review, House Committee on Public Works.

This report indicates that Federal disaster assistance has helped disaster-ravaged communities recover from the physical and economic losses caused by large-scale natural disasters.

While this assistance generally has been timely, the manner in which it is provided by the Federal Disaster Assistance Administration can be improved through—

Providing definitive and timely guidance on the eligibility of cost; and

Reducing the detail and documentation required to support a community's application for assistance and its subsequent claim for reimbursement.

Information of Federal Disaster Relief Programs. Multiagency. B–178415 of November 5.

Greater uniformity is needed in Federal disaster assistance programs. Because of differences between SBA and FHA disaster loan programs, victims sustaining similar damages from the same disaster received different amounts of assistance depending on whether they applied to SBA or FHA.

Although the Office of Emergency Preparedness was responsible for coordinating overall Federal disaster relief, there was little coordination of programs involving large Federal expenditures. This precluded any assurance that applicants were not receiving financial assistance from each program for the same losses.

Examination of Financial Statements of the Federal Home Loan Mortgage Corporation for the Years Ended December 31, 1971 and 1972. B–179312 of November 13.

In GAO's opinion, the Corporation's financial statements present fairly its financial position at December 31, 1971 and 1972, and the results of its operations and the changes in its financial position for the years then ended.

This is GAO's first examination of the financial statements of the Corporation, a private corporation created in 1970, to strengthen and further develop the secondary market in residential mortgages.

At December 31, 1972, the Corporation had invested in $1.7 billion worth of mortgage loans, an increase of $0.8 billion over the December 31, 1971, balance.

EDUCATION AND MANPOWER

Educational Laboratory and Research and Development Center Programs Need to be Strengthened. National Institute of Education, Department of Health, Education, and Welfare. B–164031(1) of November 16.

Since 1963, Federal appropriations for the educational laboratory and center research programs totaled about $211 million. As of December 1972, 11 laboratories and 9 centers (called contractors) were engaged in educational research and development.

There was little evidence that products created by these contractors—such as books and audio-visual materials—have had a significant impact in classrooms.

Consultants employed to evaluate contractor products independently and objectively have criticized the products generally as not having been proved effective.

OE intended that contractors' products be disseminated to the educational community by commercial publishers. It did not require its contractors to assess market needs or to contact publishers before product development to determine a product's marketability.

GAO reviewed products in 17 programs costing $48.8 million and found that most had generated little publisher interest.

GENERAL GOVERNMENT

Improving the Effectiveness of the Government Employees' Incentive Awards Program. U.S. Civil Service Commission. B–166802 of November 1.

During FY 1972, Government agencies granted $16 million for 91,161 achievement awards and about $4.6 million for 56,606 employee suggestions. CSC reported measurable benefits of $315 million related to special achievements and adopted suggestions.

Of more than 1,900 randomly selected employees, 56 percent indicated the Program had not motivated them to do a better job and 67 percent believed favoritism was shown in granting cash performance awards.

In FY 1972, special achievement awards by all Federal agencies ranged from 1 to 146 for each 1,000 employees and quality increases ranged from 2 to 85 for each 1,000 employees.

Inconsistent use of cash performance awards is attributable in part to the varying attitudes of management toward the awards and in part to the subjective nature of most performance awards.

Rehabilitating Inmates of Federal Prisons: Special Programs Help, But Not Enough. Bureau of Prisons, Department of Justice. B–133223 of November 6.

Progress has been made in developing educational and vocational programs for rehabilitating inmates of Federal prisons. In relation to the total problem, however, this progress has been limited because

Many inmates needing rehabilitative services did not participate in available programs, lacking motivation;

Prison industries have not been fully effective in training inmates in marketable skills;

Little progress had been made in implementing formal on-the-job training in maintenance and operation of institutions; and

Prisons did not have sufficient vocational courses.

Studies have indicated that jobs offering self-respect and financial support will deter many former inmates from returning to criminal activity. Many inmates, however, are released without jobs, unaware that placement assistance is available.

Need for a Faster Way to Pay Compensation Claims to Disabled Federal Employees. Department of Labor. B–1757593 of November 21.

GAO looked into the causes for delays in a disabled employee's receiving his first com-

pensation payment and how the delays could be reduced.

GAO recommended that the Congress favorably consider pending legislation that would reduce the lag in compensation payments.

The legislative proposal would permit each agency to pay its employees' claims rather than the Office of Federal Employee Compensation.

Proposed Elimination of the Apportionment Requirement for Appointments in the Departmental Service in the District of Columbia. U.S. Civil Service Commission. B-84938 of November 30.

The Civil Service Act requires appointments to competitive civil service positions in the Federal service in the District of Columbia to be apportioned on the basis of population among the States, territories, and the District.

This review found that the effect of apportionment has been minimal. Only 15 percent of civilian Federal employees in the Washington area in May 1973 were counted against the requirement.

The Civil Service Commission, saying this report provides support to the conclusion that apportionment has "outlived its usefulness," shares GAO's recommendation that the Congress act favorably upon proposed legislation to repeal the apportionment requirement.

HEALTH

Consumer Protection Would be Increased by Improving the Administration of Intrastate Meat Plant Inspection Programs. Animal and Plant Health Inspection Service, Department of Agriculture. B-163450 of November 2.

After reviewing intrastate meat inspection at 269 plants in seven States, GAO reported that Agriculture's inspection criteria should continue to be improved—notwithstanding improvements since 1967 when the Wholesome Meat Act to protect consumers from adulterated or misbranded meat was enacted.

The report lists names and locations of meat plants visited by GAO auditors and APHIS inspectors. Of the 269 plants, 202 were rated acceptable and 67 as unacceptable because of sanitation deficiencies, pest control, control over inedible and condemned products and other reasons.

The plants were selected at random from 2,143 plants in California, Iowa, Maryland, Missouri, Kentucky, Minnesota, and Nebraska.

Need for Improvement In Certain Hospital Laboratory Service Activities. Veterans Administration. (To the Administrator, VA) B-133044 of November 13.

In most cases, VA laboratories provided effective services in support of health care to veterans; users generally were satisfied with test results. In some areas, however, program planning and management needed improvement.

In its report, GAO recommended that VA should increase effectiveness of laboratory activities to include:

Coordinating blood bank activities with the military to take advantage of available volunteer blood when needed;

Determining present electron microscope requirements on the basis of the program objectives for diagnostic and training applications; and

In its general reference laboratories developing a method for informing hospitals of tests available throughout the VA system.

INTERNATIONAL AFFAIRS AND FINANCE

Examination of Financial Statements of the Export-Import Bank of the United States Fiscal Year 1973. B-114823 of November 13.

Except for omitted assets and liabilities totaling about $518 million, the financial statements present fairly the financial position of the Eximbank at June 30, 1973, and the results of its operations and the changes in financial position for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year and with applicable Federal laws.

Ways to Improve U.S. Foreign Trade Strategies. Departments of State, Commerce, and Agriculure; Office of Management and Budget. B-172255 of November 23.

This report focuses on agencies involved in planning and carrying out commercial activities abroad.

These agencies have not developed clearly stated objectives for foreign markets which reflect coordinated consideration of U.S. trade objectives and the activities needed to attain them.

Result: foreign markets are not analyzed systematically to identify areas of prime commercial importance. Nor are export strategies adapted to the peculiarities and special opportunities of individual markets.

NATIONAL DEFENSE

Financial Status of Selected Major Weapon Systems. B-163058 of November 13.

This is GAO's second semiannual report on the financial status of selected major weapon systems being acquired by DOD. Data was extracted from the selected acquisition reports (SAR) released by DOD.

This report details the cost increases of $2.7 billion reported on 45 major weapon systems between December 31, 1972, and June 30, 1973.

Review of Selected Subcontracts Awarded by Ingalls Shipbuilding Division of Litton Industries, Inc. Department of the Navy. B-177748 of October 23, released November 14.

At the request of the Chairman, Subcommittee on Priorities and Economy in Government, Joint Economic Committee, GAO inquired into allegations that certain officials and employees of Ingalls Shipbuilding Division, Litton Industries, Inc., engaged in illegal or improper activities, including taking fees or kickbacks from subcontractors.

GAO's examination did not reveal payments of fees or kickbacks to Ingalls' officials or employees but did show that sound procurement practices were not followed in four instances as specified in its report.

Opportunities for Increased Interservice Use of Training Programs and Resources. Department of Defense. (To the Secretary of Defense). B-175773 of November 27.

With DOD spending more than $6 billion annually to train personnel in a variety of occupational specalities, GAO focused on economies and efficiencies obtainable through consolidating common DOD training requirements.

Although there were some interservice training arrangements, the amount represented only about 6 percent of the total training in DOD. Before GAO's review, DOD had not aggressively promoted it.

Interservice training has not been extensive up to now because each military service has decided how its training requirements could best be met within its resources.

Improving Outreach and Effectiveness of DOD Reviews of Discharges Given Service Members Because of Drug Involvement. B-173688 of November 30.

Veterans with under other-than-honorable discharges because of drug involvement are experiencing problems in obtaining employment and vocational training or education and in discontinuing their drug dependence.

This report contains suggestions for improvement of DOD's program for upgrading other-than-honorable discharges for service members who were involved with drugs.

Information in this report should assist committees of the Congress and individual Members with their legislative responsibilities relating to DOD programs, particularly as these apply to S. 1716 and H.R. 6923, which were introduced in the 1st session, 93d Congress.

NATURAL RESOURCES AND ENVIRONMENT

Improvements Needed in the Program for the Protection of Special Nuclear Material. Atomic Energy Commission. B-164105 of November 7.

Potentially dangerous consequences could result from a single theft from, or loss by, authorized possessors of fissionable uranium or plutonium, GAO reported in a study on AEC's program for the protection of this material in hands of licensees.

At two of three plants operated by licensee/contractors, GAO found conditions which limited their capability "for preventing, detecting, and effectively responding to a possible diversion or diversion attempt."

About 600 organizations are authorized to possess fissionable uranium or plutonium used principally in nuclear weapons and as fuel for nuclear power reactors. Ninety-five are required to comply with AEC requirements for keeping material secure from unauthorized possession.

AEC recognized, GAO said, that the probability of material being stolen, unexplainably or accidentally lost, diverted from authorized use, or used or disposed of in unauthorized ways rises as the number of organizations authorized to hold this material increases.

Improved Federal and State Programs Needed to Insure the Purity and Safety of Drinking Water in the United States. *Environmental Protection Agency. B-166506 of November 15.*

According to EPA, the water the majority of the people in the U.S. drink is safe. However, recent EPA studies—and GAO's review—showed that potentially dangerous water was being delivered to some consumers, particularly by small systems serving populations of 5,000 or less.

Local governments and utilities are responsible for constructing, operating, and maintaining about 40,000 public water supply systems in the Nation and for taking samples of water for analysis. States are responsible for monitoring water quality of public water supply systems.

Information was obtained by GAO in Maryland, Massachusetts, Oregon, Vermont, Washington, West Virginia, and EPA in Washington, D.C.

LETTER REPORTS

To Congressman Gerald R. Ford, concerning the Model Cities program in Grand Congress on long-term leasing of such assets released November 5.

To Congressman Les Aspin, on the plans and costs of the Advanced Airborne Command Post program. B-178570 of September 25, released November 5.

To the Chairman, House Committee on Armed Services, on the history of DOD Selected Acquisition Reports, past and present GAO recommendations, and DOD actions. B-163058 of October 30, released November 14.

To the Chairman, Atomic Energy Commission, on AEC's use of contractor-furnished employees rather than Federal employees to perform work related to licensing nuclear facilities. B-164105 or November 1.

To the Director, National Science Foundation, on the scope of reviews made by NSF's Audit Office. B-160759 of November 13.

To the Administrator, General Services Administration, concerning a suggestion to limit the number of Federal Supply Schedule contracts awarded for similar products. B-114807 of November 27.

To the Secretary of the Navy, discussing Navy's comments on methodology used in GAO's review of Navy shipboard inventories. B-125057 of November 29.

To the Secretary of Labor, on the propriety of minimum wage determinations for clerical

and other office workers under the Service Contract Act. B–151261 of November 30.

LEGISLATIVE RECOMMENDATIONS—FISCAL YEAR 1974

GAO recommends that the Congress consider the following:

Joint funding legislation to permit State employment security agencies to obligate administrative expenses against a single allocation of funds. B–115349 of July 23.

H.R. 982 to prohibit the employment of illegal aliens. B–125052 of July 31.

Whether it is appropriate for the Government to continue funding the cost of transportation procured specifically for armed forces exchange goods. B–169972 of August 6.

Legislation providing for approval by the Congress of long-term leasing of such assets as shops. B–174839 of August 15.

Clarifying the Webb-Pomerene Export Trade Act of 1918 so that it will be more effective in inducing companies to form associations to compete in foreign markets. B–172255 of August 22.

LEGAL DECISIONS

In a decision B–178625 of November 8, rendered to the Director, Defense Supply Agency, the Comptroller General modified a prior decision (B–178625 of July 19, 1973) which recommended that a contract awarded to the J.I. Case Company be terminated for the convenience of the Government since the record established that the award was made to other than the low responsive bidder under a defective invitation for bids.

The Comptroller General, in a decision B–178400 of November 28, recommended that the Secretary of Labor present to the Congress—with a view towards obtaining clarifying legislation—two issues regarding the Service Contract Act of 1965 raised in a protest against certain terms in a General Services Administration request for proposals.

The issues relate to the the practice of classifying clerical workers as "service employees," and to the interpretation of the "locality" basis of wage determinations as referring only to the location of the Government installation being served in a procurement of services to be rendered at the location of the successful bidder.

OFFICE OF FEDERAL ELECTIONS REPORTS

Three reports concerning apparent violations of the Federal Election Campaign Act were referred to the Attorney General:

Nov. 8—failure of the Jewish Chronicle, a Pittsburgh newspaper, to obtain certification from Edmund S. Muskie or his authorized representative, the Muskie Election Committee, Pittsburgh, Pa., prior to publishing political ads.

Nov. 13—a possible in-kind corporate contribution to the Pennsylvania Finance Committee to Re-elect the President.

Nov. 27—failure by the Nebraska for McGovern Committee to keep and maintain adequate books and records.

HOW TO OBTAIN GAO AUDIT REPORTS

Copies of these reports are available from the U.S. General Accounting Office, Room 6427, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 386–3784.

Copies are provided without charge to Members of Congress, congressional committee staff members, Government officials, members of the press, college libraries, faculty members, and students. The price to the general public is $1.00 a copy, except as noted. There is no charge for copies of letter reports.

When ordering a GAO report, please use the B-number, date and title to expedite filling the order. Orders should be accompanied by check or money order. Please do not send cash.

Copies of decisions are available from the U.S. General Accounting Office, Room 7510, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 386–3924. There is no charge for copies of decisions.

Copies of Office of Federal Elections reports are available from the U.S. General Accounting Office, Room 6510, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 386–6411. Copies are free, except as noted.

MONTHLY LIST OF GAO REPORTS: COMPTROLLER GENERAL OF THE UNITED STATES—VOL. 7, NO. 12, JANUARY 1974

EDUCATION AND MANPOWER

Reemployment Assistance for Engineers, Scientists, and Technicians Unemployed Because of Aerospace and Defense Cutbacks. Department of Labor. B–133182 of December 5.

This program was reasonably successful, but in terms of assisting applicants in finding jobs and providing financial assistance to participants, the program fell short of estimated goals.

With lessons learned from the program, Labor should develop a plan it could implement quickly in event of future occurrences of the nature experienced by engineers, scientists, and technicians.

GENERAL GOVERNMENT

How to Improve the Procurement and Supply of Drugs in the Federal Government. Department of Defense; Veterans Administration; Department of Health, Education, and Welfare; Office of Management and Budget; General Services Administration. B–164031(2) of December 6.

Direct Federal drug purchases exceeded $275 million in fiscal year 1972, and estimated indirect purchases for Medicare and Medicaid were more than double that.

Although DOD and VA stock about 200 of the same drugs and support numerous field installations throughout the U.S., these two large agencies have had little exchange of requirements data or coordination in their procurement. During a 3-year period, in many cases, DOD and VA had paid the same manufacturer different prices for large quantities of the same drugs.

OMB should lead in developing—with GSA, DOD, VA, and HEW—policies and procedures, including consolidating requirements, to increase agency cooperation in buying drugs and achieve substantial savings through large-volume buys.

Protection of the President at Key Biscayne and San Clemente (with Information on Protection of Past Presidents.) B–155950 of December 18.

GAO recommends Congress consider seven changes in law to provide closer control, accountability, and public disclosure over Federal expenditures for protective purposes at private presidential residences.

Under the present 1968 law, the Secret Service is authorized to obtain assistance from other Government agencies for protecting the President. This was the basis of Secret Service requests to GSA for facilities installed in Key Biscayne and San Clemente totaling about $1.4 million.

GAO found that almost all of this was for protective purposes, but that present procedures—

Fostered a "casual attitude" in authorizing the work at the two residences; and

Invited GSA to do more than simply execute Secret Service requests, which were vague and general.

GAO recommended that the Congress enact legislation that—

Appropriations for expenditures at private residences for protective purposes be made to the Secret Service.

Such expenditures be authorized by the Director of the Service or his Deputy.

The Secret Service make an annual report on these expenditures to the Congress.

The report be subject to audit by GAO and GAO be given complete access to records:

Appropriations for other types of expenditures at private residences of the President be made to the White House and be reported annually to the Congress, subject to GAO audit.

Congress consider limiting the number of private residences at which permanent protective facilities, will be provided a President; and

Congress consider establishing a Government-owned residence in Washington, D.C. for the Vice-President to reduce the cost of providing permanent protective facilities for successive Vice-Presidents.

Difficulties in Immobilizing Major Narcotics Traffickers. Drug Enforcement Administration, Department of Justice. B–175425 of December 21.

This report reviews difficulties encountered by the Drug Enforcement Administration (DEA) of the Department of Justice in immobilizing major traffickers in narcotics.

From July 1, 1971, to January 1, 1973, 7,402 individuals were arrested for narcotics, marihuana, and dangerous drugs violations. DEA also cooperated with State, local, and foreign agencies in making 4,575 arrests.

However, many major traffickers arrested were—

Released on bail for long periods and thus free to continue their operations.

Received short or no prison sentences which tended to negate the deterrent effect of prosecution.

Freed after trial, acquitted, or had their cases dismissed (because of inadequate development or presentation of case).

Permitted to plead to a reduced charge and thus were immobilized for a much shorter period than might have been the case otherwise.

This report includes many recommendations by GAO to close these loop-holes with which the Justice Department agreed in general.

Improvements Needed in Assigning Metropolitan Police Department Officers. D.C. Government. B–118638 of December 21.

This is a review of the District of Columbia Metropolitan Police Department's assignment of police officers made because of the widespread concern with crime in the Nation's Capital and because 2,000 additional police officers were authorized for the force in fiscal years 1969 and 1970.

Improvements are needed in assigning officers, GAO said. Significant differences existed, for example, between the number of Patrol Division officers assigned by day of week and the workload by day of week. Reductions in these differences should increase effectiveness. Also civilians could effectively fill many positions officers hold, resulting in cost reductions.

Examination of Financial Statements of Disabled American Veterans National Headquarters, Service Foundation, and Life Membership Fund for the Year Ended December 31, 1972. B–55712 of December 7.

In GAO's opinion, except for the direct charge to the operating fund for payment of past service costs on the revised retirement plan, the financial statements and supplemental schedules present fairly the financial position at December 31, 1972, and the results of their operations and changes in financial position and fund balances for the period then ended. This is in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year and with applicable Federal laws.

NATIONAL DEFENSE

Need for Improved Financial Management in Use of Project Orders by the Department of the Army. B–17049 of October 24, 1972, released November 30 by the Chairman, Senate Armed Services Committee.

GAO selected a statistical sample from $60 million in unbilled customer orders for this

study at three Army activities. Findings indicated that about $3.6 million of the total was not needed for work prescribed. About $6.6 million remained obligated for long periods before it was needed.

DOD agreed with GAO's conclusions and acted to comply with its proposals. Controls prescribed by the Army, if fully implemented, will insure that unneeded funds are identified and brought promptly to the attention of appropriate officials.

Effective Central Control Could Improve DOD's Ammunition Logistics. B-176139 of December 6.

GAO's study of ammunition logistics in DOD showed that current management was not satisfactory in terms of economy and efficiency.

In peace time, manufacture, storage, and safekeeping of ammunition can be an expensive drain on the economy. Over $21 billion was appropriated from 1968 to 1973 for ammunition.

Defense should establish central management for all ammunition either by creating a new ammunition organization or by assigning this responsibility to one service. It would be responsible for consolidating requirements determined by each service and for continuing through the inventory accounting, procurement, production, storage, and distribution functions.

Industrial Management Review of the Army Aeronautical Depot Maintenance Center, Corpus Christi, Texas. Department of the Army. (To the Secretary of Defense.) B-159896 of December 17.

GAO identified opportunities for improving productivity of men, materials, and machines. Opportunities can be converted to maintenance cost savings by strengthening management controls. Although GAO did not fully measure potential savings, they could amount to several million dollars.

Management Problems, Policies, Procedures, and Results of Military Personnel Reductions During Fiscal Year 1972. Department of Defense. (To the Secretary of Defense.) B-179927 of December 18.

To provide a basis for improving management of military personnel reductions should they occur again, GAO identified types and severity of the management problems that arose in 1972; effectiveness of policies and procedures employed in the reductions; and impact on personnel turbulence and readiness.

GAO recommended that Defense improve reporting systems capabilities to provide timely, essential, and accurate decisionmaking information.

Audit of Payments from Special Bank Account to Lockheed Aircraft Corporation for the C-5A Aircraft program. During the Quarter Ended September 30, 1973. Department of Defense. B-162578 of December 3.

This is the 10th audit report of payments to Lockheed for the C-5A program. Since June 16, 1971, the Air Force has paid Lockheed $590,223,033 from the special bank account, leaving a balance of $114,324.

NATURAL RESOURCES AND ENVIRONMENT

California's Central Valey Project-Proposed Power Rate Increase. Department of the Interior. B-125042 of November 19, released December 20 by the Chairman, Conservation and Natural Resources Subcommittee, House Committee on Government Operations.

In this report, GAO reviews the reasonableness of 11 contentions made by opponents of a proposed increase by the Department of the Interior in the power rate to be charged customers of its Bureau of Reclamation's Central Valley Project (CVP) in California.

Four of the 11 contentions had merit.

Two procedures used in CVP were not consistent with criteria set forth in a 1966 report of the House Committee on Interior and Insular Affairs or with procedures used for other Federal power projects.

A third procedure probably would have little effect on the rate increase if the other two procedures were changed.

The proposed rate probably could be further reduced if the Bureau used water availability data from updated hydrology studies in its rate and repayment study for CVP.

LETTER REPORTS

To Representative H. R. Gross, concerning the costs for furnishing the new headquarters of the U.S. Postal Service and for travel by the Postmaster General. B-114874 of December 14, released December 19.

To the Chairman, Subcommittee on Minority Small Business Enterprise, House Select Committee on Small Business, answering questions regarding Arcata Investment Company and SBA's Section 8(a) procurement program. B-132740 of November 21, released December 20.

To the Secretary of Defense, on GAO's review of the Ration Supplement Program for the Armed Forces of the Republic of Vietnam. B-159451 of December 3.

To the Secretary of Defense, concerning changes in the Armed Forces Procurement Regulations relating to the military services' use of escalation clauses. B-156806 of December 11.

LEGISLATIVE RECOMMENDATIONS—FISCAL YEAR 1974

GAO recommends that the Congress consider the following:

Joint funding legislation to permit State employment security agencies to obligate administrative expenses against a single allocation of funds. B-115349 of July 23.

H.R. 982 to prohibit the employment of illegal aliens. B-125051 of July 31.

Whether it is appropriate for the Government to continue funding the cost of transportation procured specifically for armed forces exchange goods. B-169972 of August 6.

Legislation providing for approval by the Congress of long-term leasing of such assets as shops. B-174839 of August 15.

Clarifying the Webb-Pomerene Export Trade Act of 1918 so that it will be more effective in inducing companies to form associations to complete in foreign markets. B-172255 of August 22.

LEGAL DECISION

In a decision B-179169 of December 21, 1973, rendered to the Secretary of Transportation, the Comptroller General has concluded that a bid which failed to formally acknowledge receipt of an amendment but was dated to reflect the extended bid opening date in the amendment was improperly rejected as nonresponsive. It was recommended that the erroneously awarded contract be terminated for the Government's convenience and award be made to the low bidder if the firm is determined to be responsible.

OFFICE OF FEDERAL ELECTIONS REPORTS

Three reports concerning apparent violations of the Federal Election Campaign Act of 1971 were referred to the Attorney General:

Dec. 11—Conservatives for Nixon-Agnew Committee for reporting fictitiously an expenditure so as to avoid reporting the amount as an outstanding debt.

Dec. 18—Finance Committee to Re-elect the President involving payments to Murray M. Chotiner in connection with his hiring of two journalists for secret reports on the presidential campaigns of Democratic candidates.

Dec. 21—Eight political committees for failure to file required financial reports.

HOW TO OBTAIN GAO AUDIT REPORTS

Copies of these reports are available from the U.S. General Accounting Office, Room 6427, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 386-3784.

Copies are provided without charge to Members of Congress, congressional committee staff members, Government officials, members of the press, college libraries, faculty members, and students. The price to the general public is $1.00 a copy, except as noted. There is no charge for copies of letter reports.

When ordering a GAO report, please use the B-number, date and title to expedite filling the order. Orders should be accompanied by check or money order. Please *do not* send cash.

Copies of decisions are available from the U.S. General Accounting Office, Room 7510, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 386-3924. There is no charge for copies of decisions.

Copies of Office of Federal Elections reports are available from the U.S. General Accounting Office, Room 6510, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 386-6411. Copies are free, except as noted.

MONTHLY LIST OF GAO REPORTS: COMPTROLLER GENERAL OF THE UNITED STATES—VOL. 8, NO. 1, FEBRUARY 1974

AGRICULTURE AND RURAL DEVELOPMENT

Agricultural Program Evaluation Laws And Studies. B-161740 of November 23, 1973, released January 6 by the Chairman, Senate Committee on Agriculture and Forestry.

Approximately 400 sections of laws, relating to agriculture and forestry, require reports from various sources—Agriculture and other departments—that go to Congress, as well as other Government officials.

Of the 183 most significant, 45, or 24 percent, include language indicating the report should contain information on program evaluation.

Audit of Federal Crop Insurance Corporation Fiscal Year 1973. Department of Agriculture. B-114834 of January 8.

The Corporation provides crop insurance against practically all causes of crop loss-weather, insect infestation, plant disease, etc. At present it insures 23 agricultural commodities in 1,422 counties. The program for crop year 1973 provided insurance protection to farmers of about $857 million.

Financial statements present fairly the Corporation's financial position at June 30, 1973, and the results of its operations and the changes in its financial position for the year then ended.

COMMUNITY DEVELOPMENT AND HOUSING

Study of the Feasibility of Escrow Accounts on Residential Mortgages Becoming Interest Bearing. B-114860 of June 21, 1973, released January 14 by Congresswoman Leonor K. Sullivan.

Over 19,000 lending institutions and mortgage bankers are involved in the residential mortgage market. To determine profitability of the escrow operation for these institutions, GAO received responses from 70.4 percent of sampled institutions who owned or serviced about $80.2 billion in residential mortgages.

Of 505 lending institutions, exclusive of mortgage bankers, only 220 reported the gross income realized from escrow operations; and 83 percent reported an annual gross income under $100,000. Only three institutions—1.4 percent of those providing data—reported an annual gross income in excess of $500,000.

According to the lending institutions, requiring interest to be paid on escrow accounts will adversely affect homeowners, the mortgage industry, taxing authorities, and achievement of the Nation's housing goals.

GENERAL GOVERNMENT

Report on Administration of the Program to Reduce Crime in Minnesota. Law Enforcement Assistance Administration, Department

of Justice; Governor's Commission on Crime Prevention and Control, State of Minnesota. B–171019 of January 21.

This audit was made at the request of Minnesota's Public Examiner and three Minnesota State Senate committee chairmen. They believed that a joint GAO-State audit could strengthen auditing in the State government. LEAA also participated.

GAO reported that results achieved in combating crime with the $19.5 million in Federal funding provided since the start of the LEAA program in Minnesota through FY 1972 could not be determined, either statewide or locally.

Crime reduction goals in the State's comprehensive plan and in individual project proposals were defined too broadly, and data on program activity collected at statewide and local levels was too inadequate to measure progress.

Audit of the United States Capitol Historical Society for the Year Ended January 31, 1973. B–176631 of January 3.

Financial statements present fairly the position of the society at January 31, 1973, and results of its operations and the changes in its financial position for the year then ended.

Improving the Acquisition of Computer Systems. Social Security Administration, Department of Health, Education, and Welfare. (To the Secretary, HEW.) B–164031(4) of January 24.

In May 1972 SSA leased an IBM system at an annual basic rental cost of about $1.8 million.

In August 1972 SSA leased a UNIVAC system at an annual rental cost of about $1 million. Both were aquired—

Wthout benefit of OMB-required studies and evaluations to determine if workloads could have been reduced and if computer needs could have been met by more economical means and

Without what GAO and GSA believe to be the GSA-required approvals.

In 1973, SSA leased another IBM computer system. Although SSA has tried to improve its methods of acquiring computer systems, the SSA contracting officer was not involved until 2 months after procurement action began.

It is imperative that SSA personnel responsible for making initial decisions to acquire ADP equipment maintain a close and continous relationship with contracting officers to insure that the latter are aware of, and may better plan for, contemplated procurement actions.

Recommendations of the Commission on Government Procurement: Executvie Branch Progress and Status. *(To the Chairman, House Committee on Government Operations.) B–160725 of January 31.*

This is the third in a series of reports reviewing actions by the executive branch on recommendations of the congressionally created Commission on Government Procurement.

The executive branch task groups charged with proposing policy positions and taking action have presented submissions for executive review on 79 of 149 Commission recommendations (as opposed to 3 at mid-August 1973).

As of January 1, 1974, GAO's appraisal is that completing a program of this nature, size, and complexity is likely to require a long time—at least several years of effort. Influencing factors include:

The program is basically a part-time effort.

The executive branch review and coordination steps are extensive and time-consuming, and recycling of many recommendations is also required.

An overall plan setting forth priorities and completion dates for final executive branch action has yet to be established. Completing such a plan should soon become practicable.

A legislative program involving almost half the recommendations has yet to be developed and coordinated with appropriate congressional committees.

Assessment of Federal Regional Councils. Office of Management and Budget and Other Federal Agencies. B–178319 of January 31.

Councils were established about 2 years ago to simplify and make more effective the delivery of Federal aid to State and local governments.

GAO recommended that Councils should increase efforts to make officials of State and local governments more familiar with the Councils' role and responsibilities and the means by which their assistance can be secured.

HEALTH

Examination of Financial Statements of Gorgas Memorial Institute of Tropical and Preventive Medicine, Incorporated Fiscal Year 1973. B–114867 of January 9.

Financial statements present fairly the Institute's assets and liabilities at June 30, 1973, and the contributions and other income and expenditures and changes in fund balances for the year then ended.

The Institute's title to land donated by the Republic of Panama in 1969 (appraised value $210,000) is contingent upon the construction of a Medical Library by April 1974. However, as of September 15, 1973, the Institute was still seeking funds from the U.S. Government for construction of the library building.

Information on Attorney Fees Paid for State Black Lung Workmen's Compensation Claims in Kentucky. Social Security Administration, Department of Health, Education, and Welfare. B–164031(4) of January 8, released January 9 by Congressman John N. Erlenborn.

At the request of Congressman John N. Erlenborn, GAO reviewed the reasonableness of attorney fees for State black lung workmen's compensation claims in Kentucky as well as the amounts and legislative bases for similar fees in Pennsylvania, Virginia, and West Virginia.

INTERNATIONAL AFFAIRS AND FINANCE

Need for Better Identification and Analysis of Nontariff Barriers to Trade. Department of State, Department of Commerce, Office of the Special Representative for Trade Negotiations. (To the Secretary of State.) B–162222 of January 21.

Despite the importance of adequate information, ultimate results of nontariff barrier negotiations depend largely on the degree of commitment to reducing such barriers demonstrated by foreign countries. Given the reciprocal nature of the international negotiations, results also depend on willingness of the U.S. to negotiate comparable concessions on its nontariff barriers.

GAO recommended that increased efforts be made to identify such barriers through Embassy, industry, and other available sources. Embassies should be kept informed of broad policy and specific developments to facilitate these efforts.

Issues Related to Foreign Sources of Oil for the United States. Department of State. B–179411 of January 23.

This report discusses (1) the State Department's role before hostilities in the Middle East in October and Arab curtailment of petroleum exports and (2) critical problems facing the Department in resolving issues connected with current and future availability of oil from sources outside the U.S.

Traditionally State has used its influence and programs to promote an environment conducive to U.S. private investment in foreign countries. At the same time, it generally has avoided direct involvement in the nature, substance, and behavior of private industry.

State must play a major role in developing national policy on energy and influencing the substance of oil negotiations. Its responsibilities in protecting the Nation's interests in the rapidly evolving world energy situation obviously are important. It should, therefore, improve its capability to deal effectively with energy related problems.

NATIONAL DEFENSE

Improvements Needed in Program to Contact and Assist Recently Discharged Veterans. Veterans Administration. (To the Administrator of Veterans Affairs.) B–114859 of January 7.

This report reviews how VA has carried out its mandate to contact and assist recently discharged veterans, especially the educationally disadvantaged.

Results of VA efforts to contact and assist educationally disadvantaged veterans could be improved by more fully coordinating these efforts with those of other Federal, State, and local agencies and with veterans' organizations.

Improvements Needed in Management of Items Transferred from the Army to the Defense Supply Agency. Department of Defense. (To the Secretary of Defense.) B–146828 of January 3.

GAO's tests of 35,000 items transferred from Army to DSA inventory managers showed that in FY's '71 and '72 DSA managers made unnecessary buys of these items worth about $3.9 million.

Internal audit of this area made by the Army's Inventory Control Effectiveness Review Team reported problems in item-management transfers similar to those discussed in this GAO report.

DOD cited actions taken or planned by DSA and the Army which should, if properly carried out, result in many improvements.

NATURAL RESOURCES AND ENVIRONMENT

Research and Demonstration Programs to Achieve Water Quality Goals: What the Federal Government Needs to Do. B–166506 of January 16.

It is doubtful that the Federal Government will meet the 1985 goal set by the Congress to eliminate the discharge of pollutants into the Nation's waters because "much" of the necessary research and development work is still to be done.

This report identifies "current funding levels for water pollution R&D" as the central reason why the Federal Government is presently failing to develop the technology to achieve water quality goals established in 1972 by the Congress.

In addition, GAO said both the management and the coordination of numerous Federal R&D programs must be improved.

The report identified seven areas where improvements are required to achieve goals specified in the 1972 Federal Water Pollution Control Act:

Research to determine how pollutants get into the water, what happens to them, and what is their effect.

Minimizing the cost of treating municipal sewage—a prime objective.

Technology needed to control pollution from industrial and other sources such as agriculture.

Need for a water pollution R&D strategy.

Making the R&D program of the Environmental Protection Agency more responsive to operating programs.

Need for a national plan to improve coordination of water pollution R&D.

Need for a Federal focal point to coordinate the dissemination of research information.

LETTER REPORTS

To Senator William Proxmire, on costs of training and education programs in the Department of Defense. B–175773 of January 8, released January 17.

To Senator William Proxmire, regarding parachute pay and the use of Army men and equipment in constructing a privately owned golf course in Germany. B–179152 of December 28, 1973, released January 4.

To Congressman Les Aspin, concerning parachute jump pay. B–158185 of December 5, 1973, released January 4.

To the Chairman, Subcommittee on Conservation and Natural Resources, House Committee on Government Operations, on actions by the Forest Service and the Bureau of Land Management to resolve differences in their procedures for appraising timber offered for sale. B–125053 of October 30, 1973, released January 7.

To the Secretary of Housing and Urban Development, on how the Department of Housing and Urban Development can promote greater energy conservation. B–114860 of January 3.

To the Chairman, U.S. Civil Service Commission, on improvements in training at Executive Seminar Centers and Regional Training Centers. B–151678 of January 7.

To the Secretary of Defense, on delays in development of major components of the F–15 weapon system. B–168664 of January 14.

To the Secretary of Defense, recommending more uniform and consistent application of should-cost concepts by all military services. B–159896 of January 17.

To the Secretary of Defense, on inadequate accounting controls over cargo in storage or being shipped. B–180220 of January 23.

To the Chairman, Atomic Energy Commission, concerning the organization and operation of the AEC's audit function. B–160759 of January 28.

To the Secretary of Defense, pointing out opportunities for savings in subscribing to magazines and newspapers. B–160146 of January 30.

To the Administrator, General Services Administration, on possible savings for military and civilian agencies in subscribing to magazines and newspapers. B–160146 of January 31.

OFFICE OF FEDERAL ELECTIONS REPORTS

The Comptroller General January 29 referred an apparent violation of the Federal Election Campaign Act of 1971 by the Communist party of Illinois for failure to register and file reports with the Office of Federal Elections.

The Office of Federal Elections also released a list of political committees whose audits disclosed no violations of Federal laws warranting referral to the Department of Justice.

LEGAL DECISION

In a decision (B–178701 of December 28, 1973) rendered to the Secretary of the Air Force, the Comptroller General recommended that a contract awarded under the small business set-aside be terminated for the convenience of the Government and resolicited, on the ground that the successful bidder was other than a small business at the date of the award.

HOW TO OBTAIN GAO AUDIT REPORTS

Copies of these reports are available from the U.S. General Accounting Office, Room 6427, 441 G Street, N.W., Washington, D.C. 20548. Phone (202) 386–3784.

Copies are provided without charge to Members of Congress, congressional committee staff members, Government officials, members of the press, college libraries, faculty members, and students. The price to the general public is $1.00 a copy, except as noted. There is no charge for copies of letter reports.

When ordering a GAO report, please use the B-number, date and title to expedite filling the order. Orders should be accompanied by check or money order. Please *do not* send cash.

Copies of decisions are available from the U.S. General Accounting Office, Room 7510, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 386–3924. There is no charge for copies of decisions.

Copies of Office of Federal Elections reports are available from the U.S. General Accounting Office, Room 6510, 441 G Street, NW., Washington, D.C. 20548. Phone (202) 386–6411. Copies are free, except as noted.

RECREATIONAL VEHICLES

Mr. BAKER. Mr. President, the energy crisis is having far-reaching effects on our economy and particularly for those individuals, businesses, and industries connected with the travel industry. The March 1974 issue of Field and Stream contains an interview with leaders in the recreational vehicle industry describing the plight of that once vibrant industry and what its prospects are for the future.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RV'S AND THE ENERGY CRISIS

Before 1974 is over the energy crisis will affect broad segments of the nation in terms of unemployment, reduced vehicle sales, and lessened recreational activity. Already the crunch has accounted for such diverse effects as unemployment in Detroit and a shortage of rental cars in New York, but among the most seriously affected are manufacturers of recreational vehicles.

Many of our readers own RVs and many others are planning to buy them, yet most of us are neither using nor buying at this writing, because no one knows the amount of fuel to be available to us. We flew to Chicago recently to meet with five leaders of the RV industry. Those at the meeting included Peter R. Fink, president of PRF Industries (motorhomes, campers, and vans) and twice president of the Recreational Vehicle Institute, an industry manufacturer's association; John V. Hanson, president of Winnebago Industries (best known for motorhomes, but a major manufacturer of a full line of RV products); Eldon Smith, vice president, Fleetwood Corporation, general manager of the Travel Trailer Division (Fleetwood is a major general RV producer and the nation's largest manufacturer of travel trailers); Gene Stout, vice president of Coachmen Industries (a major general RV manufacturer, also a producer of boats) and past RVI president; and David C. Struck, vice president, Champion Home Builders Co. and current RVI president (Champion is a major RV manufacturer). We asked the five some of the questions we think you'd like to ask.—BOB BEHME.

FIELD & STREAM. The RV industry faces a difficult year. The fuel shortage——

SMITH. (interrupting)—it's not really a problem of shortages but of indecision. People do not know what is happening. Fuel may be short, but no matter how short, there will always be some gasoline for pleasure driving. We need to know how much.

HANSON. America is in a scare condition as far as the RV public is concerned. People have been afraid to buy because the government has not given us sufficient information. Once we understand the extent of the shortage and the rules under which we must live, buyers will return to the market.

FIELD & STREAM. But why should anyone buy an RV now?

HANSON. None of the reasons for wanting to use an RV has changed. People still want to take advantage of rural areas, small streams, and private, uncrowded places. People still want to go camping. They still want to get together with their families for weekend outings. But they are sitting on the sidelines because they don't know how much fuel will be available to use an RV if they buy one. We believe Americans can use RVs now. By the time this appears in FIELD & STREAM, some positive, workable plan may have been announced. If it is, it will help everyone from the RV manufacturer to the buyer.

FIELD & STREAM. What can the administration do to improve the situation?

HANSON. They made a start by appointing Simon and he's done a little by announcing a voluntary rationing program, but it's not enough. The fuel situation is still uncertain. We need specifics.

FINK. There has been considerable vacillation in Washington relative to the seriousness of the problem. One week we hear there is no gas and the next we're told the supply has been underestimated. Until this is cleared up it will be difficult for anyone to contemplate the purchase of an RV and to make a commitment to buy one or even to rent one. The desire is there, but until a buyer knows the ground rules for vacation travel in 1974 it will be difficult to make that final judgment that says "buy."

STOUT. The energy crisis has had a dampening effect on all recreational sales. People are confused because no one says how much energy will really be available for recreational pursuits.

FIELD & STREAM. How much energy does an RV use?

STRUCK. An average RV travels 3,500 miles a year. That includes motorhomes, campers, cars pulling tent or travel trailers, and more. There are about five million in use and their actual consumption, in terms of all pertoleum consumed nationally, is about .2 of 1 percent and it may be much less. Many RVs are used for other jobs between camping weekends, for car pools, to tote children to school, and for business.

FIELD & STREAM. If RV fuel consumption is miniscule, why doesn't the industry tell that story?

HANSON. We're beginning. We've established a committee of everyone in the field—manufacturers, accessory manufacturers, dealers, campground operators, and RV buyers. It will be called the ConseRVation Corps. Its job is to tell the truth.

STOUT. It's educational. We plan to increase our activities in Washington so legislators will know the story. We plan to tell dealers so they can tell buyers; we plan to tell cubs so they will go camping; and we plan to tell the non-RV public so they'll know that an RV is not an offroad vehicle, not a houseboat, but a multiple purpose rig that can be used in many ways. We want people to know and appreciate the family togetherness RV camping brings. I guess, basically, we want people to appreciate all of those things we, as RV users, already know.

FIELD & STREAM. How will it work?

SMITH. We will use television, radio, magazines, and newspapers. We will be telling Americans a simple story—do everything the government requests—drive slowly and conserve fuel—but use an RV while you're doing it. Drive 50 miles an hour and take shorter trips and you can still have fun.

FINK. In this increasingly fragmented, disdiscombobulated world, an RV offers one of the few opportunities for a family to live and travel together. The fuel shortage doesn't stop that. We think this is very important and we think the use of an RV can foster energy conservation.

FIELD & STREAM. How can the use of an RV save energy?

FINK. You must consider two elements: the size of the living space and the vehicles used. A home is a large place and requires a lot of energy to light it and heat it. An RV is a much smaller cube and demands

less energy. At home most families either share one car or have two, and either way there is a lot of driving involved. But with an RV there is only one vehicle involved and we're asking people to drive shorter distances.

FIELD & STREAM. You mean a family can turn off their homes, enjoy a weekend of RV camping, and still save energy?

SMITH. Sure.

FINK. A few weeks ago I said, "If every American family lived in a motorhome two weeks a year there would be no energy crisis," and while that's not a realistic solution, it does make the point. RVs are not the energy guzzlers people think they are. An average family, living in an RV, can save up to 80 percent of the energy they use at home.

STRUCK. We want every RV owner to drive at slower speeds, keep engines tuned for better economy, and drive less. We think that 50/50—that is fifty miles from home at fifty miles an hour, offers a lot of opportunity for great camping. It means an average RV would use less than ten gallons of gas on a weekend round trip.

STOUT. As an industry we must get back to the basics, selling our product for the things it offers the buyer and not as a magic carpet. We want people to understand that no matter where they go camping, whether around the corner or fishing ten miles out of town, it is the countryside and the RV that makes it fun.

FIELD & STREAM. Then we need to reevaluate the way we use RVs?

HANSON. Yes and no. We've sold RVs for long-distance trips, but it has only been an image. Buyers rarely use them that way. We said "Go from New Jersey to Yellowstone—yet most RVs were used close to home.

STOUT. When a customer buys an RV he has a dream of making a 3,000- to 4,000-mile trip, but he doesn't really do it. Remember, we really enjoy the pleasures of a rig after we've arrived at the destination. The real pleasures begin to unfold in camp.

SMITH. That's why the ConseRVation Corps must push close-to-home camping.

FIELD & STREAM. The Arabian nations announced a 100 percent price hike for oil, and South American suppliers jumped prices even more. Will expensive fuel affect RV use? What can be done?

FINK. There are many things you can do to improve economy: proper engine tune, reduced loads, slower driving speeds—

SMITH. (interrupting)—some people will hang back because they are afraid the fuel costs will raise the price of a weekend beyond anything they can afford. Others will switch to smaller RVs to improve mileage. But the driving expenses will not be as great as they think.

HANSON. RV buyers must decide how much they can spend on gasoline, then tailor their purchase to that budget. If they don't care about fuel costs, buy anything on the market; but if economy is important, get a small rig with a small engine.

FIELD & STREAM. We're overlooking one point. If we will be driving only fifty to a hundred miles on a weekend, fuel consumption will not be that great.

HANSON. Precisely. Higher fuel costs do not have to add up to an extensive increase in operating expenses. I sent a letter to our Winnebago Club members recently. I used as an example our largest motorhome, one that probably gets 7½–8 miles per gallon. If it goes 1,500 miles—remember that's now fifteen weekends of driving—and if gasoline prices jump from 40 to 60 cents per gallon, it means an additional cost of $40. That's just about $2.50 per weekend, not a stiff price to pay.

FIELD & STREAM. In December Simon said the government will work to avoid the need for rationing, but he also said a "standby" system was being readied. Is rationing inevitable?

STOUT. We don't know any more than any other American, but it is one reason for increasing our educational campaign in Washington. We want to be certain that if there is rationing, the RV owner gets a fair shake.

FIELD & STREAM. The latest news indicates rationing is coming. If it does arrive, what would be the best program? For example, fuel for every licensed vehicle, for every licensed driver, or some other approach?

HANSON. Obviously we believe that the first choice would be the one Simon outlined in December—no rationing. But as it is now set up the motorist still does not have the assurances he needs. If rationing comes, the best way to handle the situation, in our opinion, would be with a specific number of gallons for each registered vehicle.

FINK. Remember rationing can take many forms. Too often we consider it only as the type experienced during World War II, but it can be nothing more than what is occurring now—limited availability. Or it can be the closing of service stations on Sunday. Either effectively rations fuel. Perhaps the approach could be extended, a limit to the gallons a station can sell or the order for a second closing day for stations. However it goes it is important to devise a system that is fair and reduces the risk of a black market.

FIELD & STREAM. With the combination of indecision and shortages, the RV industry is suffering from a lack of sales. How serious is this for the manufacturer and dealer?

SMITH. It is serious, but appearances are deceiving. The really dark, bleak news broke just before Christmas. Traditionally that time is the slowest for our industry. Vehicles never sell fast then. January and February are slow months, too. Sport and camping shows are held in many parts of the country and buyers wait to see what the new models have to offer. It is not until the end of March or early April that our sales begin to move. If the fuel situation has been clarified by then, you'll see business pick up.

FIELD & STREAM. But now some dealers are going out of business and some small manufacturers are in financial difficulty. How can an RV buyer be certain he's getting a rig from a firm that will be around when warranty and service work come due?

FINK. By using the same approach he's always used. Buy from a reputable, established dealer and buy a well-known, well-advertised vehicle. Be sure it's made by a reputable manufacturer. With that combination you can be sure the firm will be around next month, next year, even the next decade.

FIELD & STREAM. But changes are coming, changes in the emphasis on size and on designs. Even now car buyers are displaying a preference for smaller vehicles with smaller engines. That trend could affect the RV market. Do you see it coming?

HANSON. Statistics from Detroit indicate a significant movement toward smaller automobiles, so we can naturally expect to build smaller trailers to match them. But that's only part of the picture. Many families will be two-car families and we think the second car will be a larger model. Possibly it will be the one suited for towing—a medium or larger trailer.

FIELD & STREAM. Then you will see a market for larger RVs?

HANSON. Sure. The flexibility and advantages of a larger trailer are superior to any small unit. The same statement can be made for a motorhome or fifth wheel trailer. Size has advantages. Many buyers will still want them. For example, larger trailers may be used as summer homes. Towing will be a secondary consideration. The rigs will be parked on one piece of land for months at a time.

FIELD & STREAM. But there are already signs of an interest in smaller RVs, vans for example. Many of our readers are asking about them because they are small, economical, and can be used for several purposes.

STRUCK. Right. There is a growing interest in vans, small travel and camping trailers, and multipurpose vehicles. We're all doing something about it. You can be sure the industry will respond with the kind of rigs customers want.

HANSON. That's everyone's story. If buyers are interested in a specific RV, we'll build it. But we're still back to the same problem. People must realize that no matter how bleak the headlines there's room for camping, and the best way to camp is with an RV. It doesn't consume energy; it helps to save it.

RULES OF THE SPECIAL COMMITTEE ON THE TERMINATION OF THE NATIONAL EMERGENCY

Mr. CHURCH. Mr. President, in accordance with section 133B of the Legislative Reorganization Act of 1946, as amended—which requires the rules of each committee to be published in the CONGRESSIONAL RECORD no later than March 1 of each year—I ask unanimous consent that the rules of the Special Committee on the Termination of the National Emergency be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

RULES OF THE SPECIAL COMMITTEE ON THE TERMINATION OF THE NATIONAL EMERGENCY

(Pursuant to Section 133B of the Legislative Reorganization Act of 1946, as Amended)

RULE 1. CONVENING OF MEETINGS

The Committee shall meet at the call of the Co-chairman or at the request of five members of the Committee. Special meetings may be called by a majority of all Committee members upon written notice to the Clerk of the Committee The Clerk shall give at least 24 hours notice to every member of the meeting, time and place.

RULE 2. PRESIDING OFFICER

The Co-chairmen of the Committee shall preside over meetings of the Committee, except that (1) in the absence of one of the Co-chairmen, the other Co-chairmen may preside, and (2) in the absence of both Co-chairmen any other member of the Committee designated by both Co-chairmen may preside.

RULE 3. QUORUM

A majority of the Committee shall constitute a quorum sufficient for the conduct of business at executive sessions. One member shall constitute a quorum for the receipt of evidence, the swearing of witnesses and the taking of testimony at hearings.

RULE 4. AGENDA AND VOTING AT MEETINGS

The business to be considered at any meeting of the Committee shall be designated by the Chairmen and any other measure, motion or matter substantive or procedural within the jurisdiction of the Committee shall be considered at such meeting and in such order as a majority of the members of the Committee indicate by their votes or by presentation of written notice filed with the Clerk. Voting by proxy shall be permitted.

RULE 5. SUBPOENAS

Subpoenas authorized by the Committee may be issued over the signature of either Co-chairman, or any other members designated by the Co-chairmen, and may be served by any person designated by the Co-chairmen or member signing the subpoena.

SPEECH BY ROBERT E. L. EATON, NATIONAL COMMANDER, THE AMERICAN LEGION

Mr. THURMOND. Mr. President, one of the finest speeches in the area of national defense I have ever read was presented in Washington on February 22 by the National Commander of the American Legion, Robert E. L. Eaton.

General Eaton addressed the subject of the total force concept with particular emphasis on Reserve and Guard forces. His remarks came before the National Council of the Reserve Officers Association at their meeting here last week.

In his remarks General Eaton questioned the wisdom of the all-volunteer force and expressed the view that the Department of Defense is not adequately exploiting the potential of our Reserve forces.

These views are sound, but the remarks of General Eaton go beyond these two parameters and touch on many points and other vital defense issues, especially in the area of defense manpower utilization.

Members of Congress should read every word of this outstanding speech. Their time could not be spent any better.

Mr. President, I ask unanimous consent that General Eaton's speech be printed in the RECORD at the conclusion of my remarks.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

AN ADDRESS BY ROBERT E. L. EATON

Members of the Reserve Officers Association, Distinguished Guests, I am delighted to be with you this morning.

The American Legion which I am privileged to represent shares with the ROA a number of common views and concerns. One is the continuing need for a strong national defense. Another is that our Reserve Forces should figure prominently in our defense structure. It is to these points that I shall address myself today.

The American Legion holds that there is substantial room for improvement in the general area of defense manpower utilization.

Specifically, we feel that the Department of Defense is not adequately exploiting its Reserve potential.

We feel that increased reliance on Reserve Forces offers the greatest promise for maximum security within the limits of our resources.

We feel that certain parochial attitudes on the part of the active establishment are restricting the development of that promise.

We intend to press vigorously our contention that the interests of national defense are best served by elevating, rather than depressing, the status of our Reserve components.

Today it is more than customarily difficult to convince the American public of the need for continued maintenance of a strong deterrent posture.

One reason is the fact that we have recently ended our involvement in a war. It seems to be an American tradition—a regrettable one—that a war's end inevitably brings a clamor for dismantling the force structure so laboriously and so expensively constructed. As a nation we seem incapable of absorbing the often-repeated lessons of previous experience.

Once again there is a demand for "reordering priorities." To some Americans that phrase suggests that we could finance increases in social programs by paring the defense budget beyond the limit of sanity. Certainly we should do everything within our power to improve the quality of life for all who are part of this nation. But when considering priorities, we should remember that defense is itself a social service, the most important one because it guarantees our freedom and our very existence.

Advocates of reduced defense expenditures point to a degree of thaw in our relationships with the Soviet Union and the Chinese Communists as evidence of a diminishing need for military strength.

That is a wishful approach. It accepts the promise of lasting peace as if it were already fact. It is not. The attitudes of the Soviets and the Chinese appear to augur some hope for the future. But, speaking for The American Legion, we remain unconvinced that these adversaries have totally abdicated their plans for military superiority and conquest.

Another reason why there is some resistance to maintaining a strong deterrent force is the ever-rising cost of defense. The fiscal 1975 budget now before the Congress contemplates defense outlays some $6 billion greater than those of the current fiscal year. That makes the defense budget a prime target for sniper fire.

However, the increase is illusory. Anyone who has bought a steak or a gallon of gasoline recently is aware of the eroding effect of inflation on defense purchasing power as well as personal purchasing power. There are additional factors compounding the problem of defense costs. There is the essential demand for greater performance in each new generation of weapon systems; this means greater complexity, hence higher costs. There are also the dramatic funding increases associated with the zero-draft, all-volunteer defense force.

Viewed in proper perspective, the proposed defense budget is anything but munificent. It amounts to a smaller percentage of the gross national product than in any year since 1950. It represents 29 percent of the total federal budget, where six years ago it was 44 percent. The American Legion supports the Administration's defense budget, with this qualification: It provides only the minimum level required for American preparedness, dollar increases notwithstanding.

Clearly, rising costs dictate a greater-than-ever quest for efficiencies in utilizing our defense resources. The alternative is further reduction in force, which is not tolerable in today's unsettled international climate.

In the search for new efficiencies, defense manpower appears a particularly promising area for focus of attention. In fiscal 1975, the average per capita pay of military personnel will reach $11,000, approximately double the figure for 1968. Despite large-scale reductions in personnel strength, manpower costs in 1975 will be up almost 50 percent above the 1968 level.

Manpower is now the largest major component of the defense budget. It takes a larger bite of the total budget than the combined sum of operations, procurement, construction, research and development. In both the current fiscal year and the coming year, manpower outlays amount to 55 percent of the defense budget.

How can we improve efficiency in manpower utilization? By *really* implementing the total force concept, the complete integration of U. S. Reserve Forces into the combat-ready force in being. I stress the word *really*. Although the total force concept has been a matter of Department of Defense policy since 1970, its implementation has been something less than vigorous.

Inherent to the total force concept are these tenets:

First, the difference in combat effectiveness between Regular and Reserve Forces is insignificant, as has been demonstrated by studies, tests and actual combat experience;

Second, Reserve units can be organized, manned, equipped, trained and operated at costs dramatically lower than the costs for similar Regular Force units. For example, a combat infantry battalion can be maintained in the Reserve Forces for about 20 percent of the cost of maintaining an active army infantry battalion.

The essence of the total force policy is that necessary reductions in active defense strength can be offset by greater reliance on Reserve capabilities. Toward that end some Reserve Forces—particularly the National Guard—have been assigned high-priority missions once considered the sole province of active forces.

I submit that there is an opportunity for greater cost effectiveness in manpower utilization through further steps in this direction. The Department of Defense should give full consideration to a substantial shift in emphasis, roles, missions and resources from the Regular Forces to the Reserve Forces.

There is, of course, a requirement for a hard core of Regular Forces. This hard core must include, among other things, an adequate rotational base for the maintenance of overseas units. The balance of the total defense requirement could be met by strong, well-equipped, combat-ready Reserve components.

Such a shift involves nothing more than full acceptance of the total force policy already established. It could prove immensely advantageous to the nation.

If the mandate is maintenance of a given level of force, it could be accomplished at far lower cost.

If the determining factor is cost ceiling, we can obtain a higher level of force within the monetary limitation.

Will the total force policy work in practice? There is ample evidence that it will. Witness, for example, the rapid response and effective deployment of the Israeli Reserves in the most recent Middle East conflagration. Our own Reserves have on several occasions provided similar testimony. The National Guard has already demonstrated its ability to meet the challenge of total force by attaining the highest level of combat-readiness in its history.

However, if the total force policy is to work it must be *fully* implemented. Full implementation means this:

The force has to be manned;

The force has to be equipped; and

The force has to be trained.

Full implementation of the total force policy will require a commitment greater than we have yet witnessed on the part of the active establishment. If we are to get that commitment, we must first effect a radical change in Department of Defense thinking concerning the role of the Reserves. Despite lip service to the concept of total force and the advantages it offers, there are still many in important positions who regard the Reserves as a "mobilization" force, something to be called up in the late innings of a war rather than a component of the force-in-being.

That word "mobilization" is one I would like to remove from the dictionary, at least insofar as it pertains to Reserve Forces.

It is true that the Reserves were conceived as a mobilization force in the Defense Act of 1916, before our entry into World War I. The legislators of that day envisioned the mobilization force as one that could be activated at the start of an emergency but equipped and trained over long months—or even years—thereafter. It was a military second string for use in a long war.

But that was six decades ago. The leisurely-mobilized Reserve Force of 1916 would be useless in today's—and tomorrow's—environment. We will never again experience an emergency in which long-term mobilization is possible. Thus, today's Reserve Force cannot be a mobilization force. It must be a

ready force, complementary but not inferior to the active force. Where there are deficiencies in readiness level or equipment, the Department of Defense should bend every effort to bring the deficient units to an appropriate level of capability.

Because of the parochial views I mentioned, the Department of Defense is not moving toward full implementation of the total force policy. In fact, and perhaps for the same reason, it is moving in the opposite direction. There was a recent decision to deactivate a number of air national units. There are indications of further cuts in the Reserve components. Such reductions are completely inconsistent with the objective of getting the most defense for the dollar outlaid.

It is difficult to understand the rationale of defense management with regard to Reserve Force reductions, actual and contemplated.

The keystone tenet of the total force policy is this: When considerations of the national economy dictate reductions in active strength, the impact must be counterbalanced by improvement in Reserve capability. Yet look at what is happening.

Over the past three years, the Soviet Union has increased its active forces from 3 million to 3.8 million men. The USSR has *not* reduced the size of its reserve establishment.

The United States, on the other hand, has been in a steady decline with respect to active personnel strength. In 1968, the peak year of the Vietnam conflict, there were 3.5 million military personnel on active duty. In the coming fiscal year, that figure will drop to 2.2 million.

Thus, at a time when our active forces are at the lowest level in more than 20 years, there are moves afoot to cut the Reserve Forces as well. This is a rejection of the basic principle of the total force concept.

It is also a foolish way to achieve economy. We of The American Legion deplore any reductions in defense strength at a time of uncertain international atmosphere. But if there absolutely must be reductions it is upside-down philosophy to cut the Reserve Forces rather than the active establishment.

Look at it this way. If it became absolutely imperative to cut your family budget, how would you go about it? Would you turn out all the lights in your home to save a few dollars a month? Or would you give up your country club membership to realize a much more significant reduction with less real hardship?

Defense management is turning off the lights, so to speak. Because the Reserve unit is far less costly to operate, its elimination saves relatively few dollars. To put it another way, we lose more defense capability by cutting the Reserves than we do by reducing the Regular Forces.

There is one other aspect of Defense management's attitude toward the Reserves.

Recently I wrote the Secretary of Defense protesting Reserve reductions. I received a reply from the Assistant Secretary of Defense for Manpower and Reserve Affairs. There was nothing in the reply which in any way changed the views I have enunciated today. There was, however, one paragraph which merits public airing. I quote:

"It is essential that units, Active and Reserve, that provide little effectiveness because they are performing a marginal mission or because they are manned and equipped in a manner that is an inefficient use of defense dollars be eliminated."

This is another attitude to which I take exception. It constitutes a lack of understanding of the Reserve role. It ignores the fact that a Reserve unit—however outmoded—is a valuable defense asset. Elimination of a Reserve unit is a waste of the time, funding, recruiting and training that brought it into being.

Is it not more logical to convert the outmodes unit to new capability? If it is performing a marginal mission, give it a new one. If it is under-equipped, equip it properly. It takes but a stroke of the pen to dissolve an active duty unit or to reactivate it. But a Reserve unit, once broken up, takes years to rebuild.

Until now, I have presented the case for proper utilization of the Reserve Forces in strictly pragmatic terms. I have outlined the cost effectiveness and other gains that can accrue from real implementation of the total force policy.

There is another side to the subject—the philosophical side.

From the earliest days of the Republic, Americans have embraced the fundamental doctrine that the cornerstone of defense is the citizen army. The first article of the Constitution empowered Congress to "call forth the militia to execute the laws of the Union, suppress insurrection and repel invasions."

Since its formation, The American Legion has espoused that doctrine. At the Legion's second national convention in 1920, the Military Affairs Committee stated a policy for insuring the readiness of our citizens soldiery. I quote:

"We recognize the Constitutional principle that a well-trained and disciplined citizen soldiery is essential to the peace and safety of both state and nation. In conformity with the spirit of our organization, we pledge our efforts in aid of the constituted authorities of the United States, and of each of the several states, in the formation, recruiting and maintenance of the National Guard of the United States at the standard of strength and dependability required by the adopted military policy of our government and the welfare of our national and state institutions.

"We believe that national safety with freedom from militarism is best assured by a national citizen army based on the democratic and American principles of the equality of obligation and opportunity for all. The National Guard and organized Reserves, which should and must be the chief reliance of The United States in time of war, should be officered in peace and in war as far as practical by men from their own ranks."

That statement was advanced in the wake of World War One. The thinking of that day envisioned the slow mobilization of forces and, as I have said, long term mobilization is no longer appropriate. However, the concept of citizen soldiery remains as valid today as in 1920 and at the founding of the Republic.

Today, however, it is national policy to build toward an all-volunteer, professional armed force. Without participation by the citizens in selective service, we are moving away from the concept of citizen soldiery.

The American Legion supports the personnel of our armed forces. We are convinced that they represent the highest type of individuals who serve our nation. But we are not convinced that the professional armed force is in keeping with the American idea of free government.

Nor are we convinced that it is an effective way to fight our nation's wars. There is a belief—in which I concur—that the principle cause of the Southeast Asia disaster was the professional army approach. There were draftees in the armed forces, but the army fighting the war was primarily professional. The Reserves were never called into action and for that reason the nation never realized the full participation of its people.

I believe that a military effort which lacks the full support of the American people is foredoomed to failure.

The total force policy provides an opportunity for active participation of our citizenry. But if it is to be a viable program, it must be fully and intelligently implemented. We must have a commitment to man the force, to equip the force and to train the force. The American Legion, The Reserve Officers Association and others who share our convictions must carry the fight to insure that commitment.

DECENT HOUSING FOR AMERICANS

Mr. MONTOYA. Mr. President, providing decent housing for Americans unable to secure such housing from the private market has been a national goal for over 36 years. Much has yet to be done to meet our national commitment of "a decent home in a suitable environment" for every American.

As a parallel to the need for decent housing for many Americans, we have today a sharp downward turn in the construction industry, with a resulting unemployment level which threatens to involve other segments of the economy severely, and soon.

Put simply, Americans need houses and American workers who build houses need jobs.

Programs to provide for low-cost and low-income housing through Government and industry cooperation are already provided for in existing legislation. Only one key element seems to be missing: the will of this administration to carry out the congressional mandate.

Nowhere is the problem illustrated so clearly as it is in the housing needs of the American Indians, both on and off the reservation. The Bureau of Indian Affairs estimates that two-thirds of all Indian housing is substandard. That should make Federal programs aimed at filling the need of low-income Americans a natural tool to assist Indian populations. Unfortunately, that has not been the case—and the new budget makes no effort to hide the low priority—in fact, the "no" priority—status of the American Indian in administration planning.

There are special problems for native Americans living on reservations, and those special problems make it essential that Federal Government assistance be put to work immediately to help satisfy Indian housing needs.

Mr. President, I think it is time we faced up to the existence of Indian poverty and the basic needs of Indian families. A recent report of the Housing Assistance Council contains disturbing facts about the severe shortage of Indian housing and the bureaucratic red tape which is delaying effective use of existing programs.

Our housing needs are severe in many places in America—but nowhere are they more desperate than on our Indian reservations. Acting to provide subsidized low-cost housing where it is needed should be a priority goal for HUD every year—but it should be a first-priority goal for HUD this year to begin immediately to correct the years of housing neglect on Indian reservations.

We can, and must, see that congressional intentions in existing housing legislation are carried out by the appropriate Federal agency. If necessary Congress must provide oversight and guidance to assure full and immediate compliance with the law.

I ask unanimous consent that the report of the Housing Assistance Council be printed the RECORD and I urge all Senators to consider seriously the implications of neglect which are reflected in this study. Surely we can find a way to produce more action and less talk—action to fulfill commitments made years ago, and still not kept.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

HUD FOCUSES ON INDIAN HOUSING ISSUE[1]

The impoverished American Indian has always appeared on the bottom rung of the priorities' ladder for federal aid—and housing aid has been no exception. Although the Bureau of Indian Affairs estimates that nearly two-thirds of all reservation homes were substandard at the close of fiscal year 1973, development of new low-income housing on most reservations is either pitifully inadequate or nonexistent.

The Department of Housing and Urban Development, the federal agency charged with housing the millions of families who cannot afford a decent home, has long been criticized by Indian housing interests for ignoring the unique and often complicated needs of Indians. And, although equal opportunity officials at HUD apparently are sincere in some recent efforts to include housing priorities for native Americans, other policy actions of the department have travelled a different route.

Dr. Gloria E. A. Toote, assistant secretary for equal opportunity, asserted in a recent interview that HUD would not ignore the special needs of Indians. "The unique problems of Indians must be addressed now," she stated. She has promised Indians a national, HUD-sponsored conference to discuss their housing problems.

Her comments come at a time when HUD is under heavy criticism for the delay in completing a manual for the mutual help housing program (the only HUD program specifically for Indians), for holding back the long promised Indian public housing units, and in general, for seeming to ignore future Indian housing needs.

The Bureau of Indian Affairs has noted that over 47,000 reservation units need total replacement, and an additional 24,000 need renovation. Despite these glaring statistics, HUD as of this month was 8,700 units short of its 1969 commitment to provide 30,000 new public housing units to Indians by the end of the current fiscal year.

HUD Secretary James T. Lynn last fall promised Indian leaders that 4,000 of these remaining units—low-rent, mutual help and Turnkey III—would be released this fiscal year. On February 5, HUD finally released 1,788 units for approved program reservations served by the Oklahoma City, Los Angeles and Milwaukee area offices. (Milwaukee received only 75 of them, and the Seattle and Denver offices, serving major populations of Indians, received none.) The remaining 2,212 units have been promised for mid-March, when the section 23 leased housing units are due for release.

The 4,000 units apparently were being held by the Office of Management and Budget pending the finalizing of the 23 leasing regulations. But Senator James Abourezk of South Dakota has asserted repeatedly that the "hostage" units have no connection with 23 leasing. According to Sheldon B. Lubar, HUD assistant secretary for housing production and mortgage credit, the remaining 2,212 units will be public housing.

The Administration's fiscal 1975 budget contains no provisions for the other 4,700 units that HUD would need to meet its 1969 commitment, and no future commitment has been made for the thousands of Indian families that will remain in dilapidated homes. The 23 leased housing is the only substantial low-income housing aid requested in the HUD budget. But the success of 23 leasing depends almost entirely on the impetus of the private market, the availability of standard vacant units and on the land that can be developed by private contractors. These conditions are virtually nonexistent in most Indian areas.

SPECIAL PROBLEMS

A comprehensive HAC study of Indian housing has identified other special problems. Reservation Indians often have been unable to obtain mortgages because they do not have clear title to their property. Building on a reservation requires dealing with a tangle of red tape. There is a lack of coordination among the plethora of agencies that must be involved, including HUD, the Bureau of Indian Affairs, the Indian Health Service, the local housing authority and the tribal council. No national Indian housing organization, federal or private, exists to plan and develop comprehensive, workable programs.

HUD itself has had only one program exclusively for Indians—mutual help under the public housing program—but it has a doubtful future and no procedural guidelines. And, rural Indians must cope with the hurdles found in most rural areas, such as a lack of financial and technical resources and a void in the construction and building supplies trades.

Indian housing interests accuse HUD area officials of burying Indian applications at the bottom of the stack for last consideration. They point out that HUD programs—and policies—are geared to urban areas and are unworkable on reservations.

PROPOSED CONFERENCE

Eight Indian housing representatives recently underlined these problems at a caucus with Dr. Toote at the department's equal opportunity conference in Los Angeles January 11. Noting that HUD commitments to Indians have repeatedly been broken and that few programs have been implemented on reservations, the representatives called for a national HUD conference devoted specifically to Indian housing problems and requested that Secretary Lynn appear.

Dr. Toote promised them that her office would sponsor a three-day seminar "within the next two months without a doubt." She also said the meeting would be scheduled in an area with a large concentration of Indians, possibly Phoenix, and she invited the eight to help plan the meeting.

However, in a February 7 interview with HAC, Dr. Toote explained that the time and location of the seminar were uncertain and "subject to the convenience of the Secretary (Lynn)." She explained that, although it was hoped that the meeting could be held within the next two months (by mid-March), she thought that, "It's more important to have the Secretary there, and as many of the assistant secretaries as possible." She added that the exact time and location would depend on the schedules of these top HUD officials.

Responding to rumors that the conference might be held in Washington rather than at a site more accessible to Indians, Dr. Toote said that Secretary Lynn could probably more easily fit a Capital appearance into his schedule. But she conceded that then "you won't get full participation of Indian representatives."

She also suggested that if Secretary Lynn and the assistant secretaries could not attend, the conference might be cut to one and a half or two days rather than three. But she stressed, "Responsible persons from all HUD offices will attend."

The eight Indians at the Los Angeles caucus, designated as the initial coordinating committee, were asked to submit to Reeves Nahwooksy, Indian coordinator, names of potential participants from Indian and housing organizations. Although Dr. Toote on February 7 said that Nahwoosky had been "in daily contact" with the coordinating committee, there has been no meeting between Nahwoosky and the committee. And, although numerous Indian groups have contacted HUD to express their support of the conference, actual planning apparently is being held up pending Lynn's decision on whether to attend.

Indications are that Secretary Lynn may want to delay the Indian seminar until HUD's mutual help manual for reservations has been reviewed by Indians. Last July, the department promised that a draft would be ready by October. HUD officials now speculate that it may be ready by late March. But Dr. Toote has stated that scheduling of the conference would not depend solely on the completion of the manual.

She emphasized that the proposed conference was not to be "an open arena for the public," but rather a "seminar" for Indian housing organizations to discuss ways of solving Indian housing problems. She said some issues that would be addressed include housing design for reservation units, adaptation of HUD housing to the cultural preferences of Indians, coordination among various federal agencies in providing reservation housing, and alleged delays in processing Indian applications.

Dr. Toote noted, however, that HUD already had begun dealing with these problems. She announced that "at least four" more Indian coordinators would be added to area offices to serve under Nahwooksy, with Indians their major—and possibly only—responsibility. She noted that both Seattle and Denver, regions with large concentrations of Indian populations, already have staff members who devote a great deal of time to Indian housing problems.

Dr. Toote said she thought that increasing the number of Indian coordinators would help to eliminate the allegations that Indians' housing needs often are overlooked by HUD officials. She commented, however, that she didn't know what could be done about eliminating the tangle of agencies that must be involved in reservation housing development. But she added, "I hope for an enlightened approach" to result from the upcoming Indian conference.

Dr. Toote announced that the next national meeting of the assistant regional administrators for equal opportunity would be held March 1–3 in Albuquerque, where they would visit an Indian area to get a better look at the problems. "They must have total sensitivity training on Indian problems," she emphasized. "All of HUD needs this knowledge."

Hopefully, effective utilization of this knowledge will result from the upcoming conference. In a letter to Dr. Toote supporting the seminar, HAC outlined some issues that should be addressed to achieve priority status for Indians, rather than a perpetuation of the neglect which has characterized their treatment till now. These include:

A long term federal commitment to provide Indian housing under programs that relate specifically to Indians;

Greater flexibility and adaptation of cur-

[1] The Housing Assistance Council is completing a comprehensive study on the status and future needs of Indian housing on and off reservations. HAC's Southwest director, Roland Chico, who is a Zuni-Paiute Indian, is a member of an eight-person coordinating committee that is helping to plan an upcoming national conference on Indian housing problems sponsored by HUD. HAC's Southwest office is at 120 Madeira Dr., N.E., Albuquerque, New Mexico 87108, Phone: 505–268–4351.

rent HUD programs to the Indian housing setting;

Improved communication and cooperation among the many agencies having responsibility for Indian housing;

Increased training and staff support by HUD to overcome the lack of Indian expertise in housing; and

Development of an ongoing Indian focus within HUD.

The future of Indian housing will remain endangered unless these questions are confronted and realistic solutions are proposed. HUD's commitment to a national Indian housing meeting is a valuable first step in developing an overall, effective Indian housing delivery system.

THE PRESIDENT'S RECOMMENDED WAGE INCREASE

Mr. BENTSEN. Mr. President, tomorrow when the Senate considers legislation pertaining to the President's recommended wage increase for the executive, legislative and judicial branches, I will be necessarily absent and therefore wish to state my position on this issue. Altnough these Federal employees have not enjoyed a salary raise for years, in spite of rising price indexes and rampant inflation, I am opposed to increases for Members of Congress at this time. During a period of inflation the entire country must tighten its belt and the Congress should set the example by accepting a freeze on our salaries. However, I support cost-of-living pay increases for members of the judiciary. A number of outstanding Federal judges have resigned recently for financial reasons, among others. Since a country's judicial system is based in good part on the quality of its personnel, it is imperative that we attract this Nation's most outstanding lawyers to public service by providing sufficient financial incentive. The Nation will be that much stronger for enjoying a strong judicial system.

RULES OF SELECT COMMITTEE ON SMALL BUSINESS

Mr. BIBLE. Mr. President, pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, I submit herewith for publication in the CONGRESSIONAL RECORD the rules of the Select Committee on Small Business as adopted on February 1, 1973. There have been no amendments or changes since that time.

I ask unanimous consent that the text of the committee rules, as adopted, be printed as required in the RECORD.

There being no objection, the text of the rules was ordered to be printed in the RECORD, as follows:

STANDING RULES OF THE SENATE SMALL BUSINESS COMMITTEE

1. GENERAL

All applicable provisions of the Standing Rules of the Senate and of the Legislative Reorganization Act of 1946, as amended, shall govern the Committee and its Subcommittees. The Rules of the Committee shall be the Rules of any Subcommittee of the Committee.

2. MEETINGS AND QUORUMS

(a) The Committee will meet at the call of the Chairman. If at least three Members of the Committee desire the Chairman to call a special meeting, they may file in the office of the Committee a written request therefor, addressed to the Chairman. Immediately thereafter, the Clerk of the Committee shall notify the Chairman of such request. If, within three calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within seven calendar days after the filing of such request, a majority of the Committee Members may file in the office of the Committee their written notice that a special Committee meeting will be held, specifying the date, hour and place thereof, and the Committee shall meet at that time and place. Immediately upon the filing of such notice, the Clerk of the Committee shall notify all Committee Members that such special meeting will be held and inform them of its date, hour and place. If the Chairman is not present at any regular, additional or special meeting, the ranking majority Member present shall preside.

(b) In executive sessions, a quorum for the transaction of business shall consist of a majority of the Members of the Committee.

(c) In hearings, whether in public or executive session, a quorum for the taking of testimony not under oath shall be one Member of the Committee. A quorum for the taking of sworn testimony shall be two Members of the Committee, unless the witness voluntarily waives this requirement.

(d) Proxies will be permitted in voting upon the business of the Committee by Members who are unable to be present. To be valid, proxies must be signed and assign the right to vote to one of the Members who will be present. Proxies shall in no case be counted for establishing a quorum.

3. HEARINGS

(a) The Chairman of the Committee may initiate a hearing on his own authority or at the request of any Member of the Committee. Written notice of all hearings shall be given to respective Committee or Subcommittee Members. Notice shall be given as far in advance as practicable. No hearings of the Committee shall be scheduled outside of the District of Columbia except by a majority vote of the Committee.

(b) Any Member of the Committee shall be empowered to administer the oath to any witness testifying as to fact, if a quorum be present as specified in Rule 2(c).

(c) Subpoenas shall be issued only when authorized by a majority vote of the Committee. When so authorized, subpoenas may be issued by the Chairman or by any other Member of the Committee designated by him. A subpoena for the attendance of a witness shall state briefly the purpose of the hearing and the matter or matters to which the witness is expected to testify. A subpoena for the production of documents, memoranda, records, etc. shall state briefly the purpose of the hearing and shall identify the papers required to be produced with as much particularity as is practicable.

(d) Any witness summoned to a public or executive hearing may be accompanied by counsel of his own choosing, who shall be permitted while the witness is testifying to advise him of his legal rights.

(e) No confidential testimony taken or confidential material presented in an executive hearing of the Committee or any report of the proceedings of such an executive hearing shall be made public, either in whole or in part or by way of summary, unless authorized by a majority of the Members of the Committee.

MESSAGE FROM THE HOUSE — ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 2589) to assure, through energy conservation, end-use rationing of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes.

The enrolled bill was subsequently signed by the Vice President.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The PRESIDING OFFICER (Mr. CLARK) laid before the Senate messages from the President of the United States submitting sundsy nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

DISPOSITION OF ABANDONED MONEY ORDERS AND TRAVELER'S CHECKS

The PRESIDING OFFICER. All time for morning business has expired. Under the previous order, the Chair lays before the Senate the unfinished business, S. 2705, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 2705) to provide for the disposition of abandoned money orders and traveler's checks.

The PRESIDING OFFICER. The Chair recognizes the Senator from New York.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I promised the majority leader that I would submit an amendment at the opening today, which I herewith do.

I send to the desk an amendment and ask that it be stated.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read the amendment, as follows:

On page 4, lines 24 and 25, change the date to read "January 1, 1974".

Mr. JAVITS. Mr. President, the purpose of this amendment is to conform with the date of the law, the date of the operative effect of the law, to the date of retroactivity which is specified. In short, all the amendment does is eliminate from the bill, or seek to eliminate from the bill, that part of it which seeks retroactivity for 10 years.

Mr. President, I wish to emphasize

that because it seems so really outrageous to me that Congress would take a situation of settled law for a period of 10 years and simply turn back the clock because that suits certain persons, notwithstanding the decisions of the Supreme Court which have stood for all that time in respect to a given set of facts.

I repeat today what I said yesterday on that score—that it is nothing but, in my judgment, an effort to exercise naked power—the theory that a number of States may benefit, without much regard to how big a deal this is—it is not that big—and that they will simply vote with the proponents of the bill without any regard to fairness or justice or the present state of the law and what has been the law for the past 10 years. I consider it my duty to resist that, and I feel it is a necessary duty to the country. Once we start in this kind of procedure and allow it to take effect, there is just no end to it. We could make anything retroactive. We could make taxes retroactive for 25 years or 30 years or 100 years. And 10 years is really a period of time that, in my judgment, simply offends the comprehension and understanding of how things operate and how things go.

For that reason, I felt it my duty to oppose this measure and have submitted this amendment, which is in line and in accord with the concepts which I think should obtain in a matter of this kind.

If we are going to codify law hereafter which is different from the law which has been laid down by the Supreme Court, at the very least the law as it stood up to now, having been fought through the courts and having been decided by the courts on principles of justice, should be sustained rather than set aside because theoretically there are enough votes here to do it.

That is the basic substance for my opposition and the reason why I feel that I have the right to do everything I can to see that this injustice is not perpetrated. An effort is being made to perpetrate it on my State, and it is my duty to resist it with every power and every ability that I have, and I shall do so.

Mr. President, today I should like to talk about the constitutional aspects of this particular matter. They were dealt with to some extent in a memorandum which was filed by the Attorney General of the State of New York, and which was sent to me, laying out the arguments of the State of New York on this particular subject.

The constitutional aspects of it I think bear very serious consideration, not that we cannot, if we choose, pass an unconstitutional statute. Of course we can. But we certainly like to know when we are moving in that area, and it is a perfectly proper argument for a Senator to make that we should not legislate an unconstitutional measure.

Mr. President, the statement of the Attorney General in dealing with the issue of the constitutionality has reference to a number of other cases which bear out this viewpoint based upon a further theory, and that is the theory which I shall state is borne out by this statute. The apparent basis for the proposed Federal intervention into the field of escheat or abandoned property is the maintenance of records by these companies, the debtor companies. And I explained yesterday that when one buys a money order or a traveler's check, he creates a debt from the issuing company to the issuee, as it were, that is the person who gets the benefit or to the person purchasing the particular debt obligation.

So I point out that the maintenance of records by these companies, the debtor companies, is said to be the reason why the Federal Government can intervene on the ground that the identification of the last known address of the true owner would create a burden on interstate commerce. And it even suggests Federal regulation in this particular measure, S. 2705. Section 1, page 1, lines 6 to 10 reads as follows:

(1) the books and records of banking and financial organizations and business associations engaged in issuing and selling money orders and traveler's checks do not, as a matter of business practice, show the last known addresses of purchasers of such instruments;

It then goes on to say:

(2) a substantial majority of such purchasers reside in the States where such instruments are purchased;

(3) the States wherein the purchasers of money orders and traveler's checks reside should, as a matter of equity among the several States, be entitled to the proceeds of such instruments in the event of abandonment;

That is where the unconstitutional aspect comes out. Neither the Attorney General nor I believe that equity among the States is a proper element of interstate commerce jurisdiction.

The bill then goes on to say:

(4) it is a burden on interstate commerce that the proceeds of such instruments are not being distributed to the States entitled thereto; and

Mr. President, that is another very serious question, whether that can be settled by constitutional statute in the absence of a State compact, bearing in mind that a State compact requires approval of the Congress. As to whether it is a proper forum for distribution between the States or for a State to recover from another State, there is a direct suit to the U.S. Supreme Court.

The bill goes on to state:

(5) the cost of maintaining and retrieving addresses of purchasers of money orders and traveler's checks is an additional burden on interstate commerce since it has been determined that most purchasers reside in the State of purchase of such instruments.

Therefore, the promises of which the claimed jurisdiction of the Congress rests is essentially as the Attorney General of New York states—the maintenance of records which adequately identify the last known address of the true owner, and that constitutes a burden on interstate commerce.

Quite apart from the fact that it seems entirely reasonable that such records should be maintained, it is hard to see how a requirement that their maintenance constitutes a reasonable basis for an interstate commerce clause such as we have before us, because if there is a duty to maintain, such duty can be enforced by State law. It there is no State law requiring the maintenance of the addresses of persons who buy the money orders or travelers checks, then there is no reason why the United States should intervene in the absence of a statute to make it a duty of the Interstate Commerce Commission. In the bill, essentially it relates to any mandated requirement that such records be hereafter kept.

So, it seems to me as to the burden which is referred to again, that the whole premise of the legislation is not regulation, but the fact that in many cases no such orders are kept. That in itself is negative. It is said that the fact that no such record is kept is a burden on the Supreme Court. And that I very seriously challenge.

Mr. President. I understand that the distinguished manager of the bill on the minority side would desire to speak at this time. I would be very happy to yield to him for that purpose.

Mr. TOWER. Mr. President, I must observe that the amendment offered by the distinguished senior Senator from New York to delay the effective date of this law simply cannot be accepted by the Committee on Banking, Housing and Urban Affairs. One of the objectives of this proposed law, in addition to fostering an equitable distribution of abandoned money orders among all the States in their fair share, is to relieve the courts of very tedious and lengthy lawsuits involving these claims. The reason the committee selected the 1965 date was to provide for a smooth transition of the law to follow as closely as possible the Supreme Court decision, Texas against New Jersey, which was decided February 1, 1965. If we substitute any date other than 1965, we unnecessarily create a hiatus in the law and would further encourage lawsuits rather than settling this matter—per the request of the Supreme Court—once and for all.

Mr. President, I submit that the material from the American Law Division of the Library of Congress may have arrived at this conclusion:

It would appear that the extensive reliance upon *Texas* v. *New Jersey* and the further application of the opinion in that case would also connote an adoption, at least inferentially, of Justice Black's recognition of the right of Congress to reject or modify this rule by legislative enactment.

Therefore, I do not think that the bill is vulnerable from the standpoint of challenging its constitutionality. I urge the Senate to reject the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

Mr. JAVITS. Mr. President, I have heard with interest the attitude of the Senator from Texas on this matter. He speaks of tedious and lengthy litigation.

There is no tedious or lengthy litigation because the question is settled. The exact rules are laid down as to just how the escheatment of property should be dealt with by the Supreme Court of the United States as recently as June of 1972

in the case of Pennsylvania against New York. It is explicitly laid out. There is no argument about it.

So the tedious and lengthy litigation is only by people who have no case. Otherwise, the rule is absolutely laid down.

Second, the Senator refers to the fact that Congress, he implies from Judge Black's opinion, may reject or modify this rule. But, Mr. President, our argument is—and I shall argue the constitutionality separately—that, while surely Congress may reject or modify this rule, and this bill in fact does modify the rule, it should do it prospectively; it should not do it, where the law has been settled by a decision of the highest court of the land, retrospectively for 10 years.

I emphasize that constantly, Mr. President, because it really seems so offensive to any concept of fairness to simply push the clock back for 10 years on matters which are absolutely settled law.

Further, Mr. President, if my colleague the Senator from Texas believes he has ended the tedious and lengthy litigation even after this bill runs the gauntlet of the Senate and the House, gets passed, is not vetoed, and becomes law, he has not seen anything yet. There will be tedious and lengthy litigation, if that is the way it is defined, for a very long time to come. There are no better litigating agents than the attorney general's offices of the various States. The best evidence of this is that it took a very long time, many years, before they got to the decision in the Texas case in 1965, the decision which has been so often discussed here.

This abandoned property lies around for many years, anyway. It takes 7 years before it is actually abandoned and any claim can be made to it. So, Mr. President, I do not see how you can base your opposition on that, in view of the fact that our case is not made on the right of Congress or the ability of Congress to seek to change the rule, but our substantive case, aside from the question of constitutionality, which I have just begun to discuss today, is based upon the fact that it is offensive to the whole system of jurisprudence, for absolutely no reason except that it suits the proponents of the bill to turn the clock back 10 years, in a field in which the law was absolutely settled 10 years ago. That is the essential, substantive basis for my opposition.

Again going to the constitutionality as an entirely appropriate article of debate, on the retroactivity aspect of it, when, as, and if it should arise, I think that is a legitimate point to be made in this discussion. I went over the position of the attorney general of New York, who made it clear that what strained the concept of constitutionality was the fact that this whole matter, if it became law, was based upon the idea of burdening interstate commerce because people did not retain records—the negative act of not retaining records by those who bought these money orders and travelers checks. As I said, I did not find anything in this legislation to make them retain such records, and I have very grave doubts that a failure to maintain records could be a burden on interstate commerce. So that is one ground respecting the constitutionality.

Another ground which is raised by the Attorney General of New York is that this area has been traditionally reserved to the States; that is, the area of escheat the area of abandoned property, and the area of conflicting claims between States on matters of escheat and abandoned property. I should like to discuss with the Senate a few of the cases which have arisen on that particular ground.

A very interesting case, Mr. President, arose quite a long time ago, in 1947, when the Court considered the case of Connecticut Mutual Life against Moore, Comptroller of the State of New York.

In that particular case, the issue was raised as to policies of insurance issued by foreign corporations for delivery in New York on the lives of residents of New York, where the insured persons continue to be residents of New York and the beneficiaries are residents after maturity of the policies.

Article 7 of the Abandoned Property Law of New York, requiring payment to the State of moneys held or owing by life insurance corporations and remaining unclaimed for 7 years by the persons entitled thereto, was held by the Court not to impair the obligation of contracts within the meaning of article I, section 10 of the Constitution.

This question, because it is so important to our decision here, relates to the constitutionality of laws of this kind, and what impact and implication they have. By the way, article 7 of the Abandoned Property Law of the State of New York relates to unclaimed life insurance funds, and the Court pointed out that this law was amended to cover insurance companies incorporated out of the State some time before the State sought to escheat the proceeds of life insurance policies by those corporations which had issued those policies in New York, the corporations being "foreign corporations."

The Court, after reciting the basic facts which I have recited, pointed out that the suit was brought by nine insurance companies incorporated in other States to enjoin the State comptroller and all persons acting under State authority from taking any of the steps of escheat which are provided by the statute. The supreme court of the State reserved the constitutional question so that the matter could go to the U.S. Supreme Court, and the argument was made that the statute—that is, the New York statute—transforms into a liquidated obligation an obligation which was previously only conditional. The argument, under the due process clause of the Constitution, was that New York has no power to sequester funds of these life insurance companies to meet their obligations on insurance policies issued on New York residents for delivery in New York.

The Court then went into various technical aspects of the policies, and discussed those, and then stated these conclusions:

> Unless the state is allowed to take possession of sums in the hands of the companies classified by § 700 (the particular section of the law) as abandoned, the insurance companies would retain moneys contracted to be paid on condition and which normally they would have been required to pay. We think that the classification of abandoned property established by the statute describes property that may fairly be said to be abandoned property and subject to the care and custody of the state and ultimately to escheat.

Which is the situation in the instant matter before us.

> The fact that claimants against the companies would under the policies be required to comply with certain policy conditions does not affect our conclusion.

Says the Court:

> The State may move properly be custodian and beneficiary of abandoned property than any person.

Then they go on to say that:

> The State has the same power to seize abandoned life insurance monies as abandoned bank deposits

Though there may be a difference between the way in which the policyholder as contrasted with the reinsurer beneficiary may collect what is due him. But the Court dismisses that difference and I think the Court is right in that regard. The Court holds again that this bears on the question of whether when names and addresses are written in the debtor's records when the State undertakes protection of abandoned claims.

> It would be beyond a reasonable requirement to compel the State to comply with conditions that may be quite proper as between the contracting parties. The State is acting as a conservator, not as a party to a contract.
>
> We see no constitutional reason why a State may not proceed administratively, as here, to take over the care of abandoned property rather than adopt a plan through judicial process. . . . There is ample provision for notice to beneficiaries and for administrative and judicial hearing of their claims and payment of same. . . .

The Court analyzes, then, the basis why the State is not bound by the conditions which obtained between the beneficiary and the life insurance company issuing the policy.

The Court then goes on to say, nor do we agree with appellants' argument that New York lacks constitutional power . . .

This is pertinent to our discussion here to take over unclaimed moneys due to the residents on policies issued for delivery in the State by life insurance companies chartered outside the State.

Here we go to the heart of the argument which is the claim that only the State of incorporation could take the abandoned moneys. This, let us remember, is the other side of the coin of the rule laid down in the Texas case and in the Pennsylvania case, that is, that the entitlement is to the State if the address can be identified. The entitlement is to the State where the owner of the debt—that is, the creditor—is located.

Now the Court holds, therefore, that this will not prevent the Court from acting because the statutory reference says the Court states "any moneys held or owed" and does not refer to any specific assets of an insurance company but sim-

ply to the obligation of the life insurance company to pay, and the problem of what a State other than New York may do is not before us in this framework.

So the Court says that in order to prevail, that the State of New York must show that there may be abandoned moneys over which New York has power.

The question, says the court, is whether the State of New York has sufficient contacts with the transactions here in question to justify the exertion of power to seize abandoned moneys due to its residents.

It is urged that other considerations should prevail in choosing the State of incorporation of the insurance company as the State for abandoned moneys or abandoned indebtedness if such moneys are to be taken from the possession of the insurers.

Here it is, as in the cases we have been discussing, pointed out that the present residence of missing policyholders is unknown and that with the shift in population, residence is a changeable factor and that if the New York insurer chose a foreign corporation as his insurer, his choice should be respected, and moneys should escheat to the sovereignty that guards them at the time of abandonment.

This is a very material fact in respect of the matter which we are discussing because the argument which is made here that "moneys should escheat to the sovereignty that guards them at the time of abandonment," is precisely the basic and fundamental rule which was pursued by the Supreme Court in the Texas case and in the Pennsylvania case—a very sound law, indeed; and the law which we feel should be followed in respect of the statute which Congress proposes to enact, because the Texas case and the Pennsylvania case said that where there is no address which is of record, then the domicile of the corporation which has issued the debt instrument is the right area for escheat because, obviously, that is the sovereignty which is safeguarding the entity which is required to be made good on the debt.

Like any corporation, whatever life it has is the life which has been breathed into by the State under whose laws it is permitted to incorporate. So that the converse of the proposition, as sustained by the courts in this case, way back in 1947—Connecticut against Moore—is that where there is an address, there is an identified owner, then when the property is abandoned, the State which has harbored that owner—to wit, which has safeguarded him—is entitled to collect the debt, even though the home of the debtor—to wit, his domicile as a corporation—is another State. But where there is no record of the owner and what State he is from, then the converse of that proposition which animated the decision in the Texas case which came some 18 years thereafter is that the domiciliary State of the issuing corporation—to wit, the debtor—is entitled to recapture the abandoned properties but for precisely the same reason because it safeguards the existence—and indeed is responsible for the existence of the only party to the deal who is ascertainable—to wit, the debtor—in that particular case.

So that the decision, in my judgment, stands not only on its own ground but on other decisions like the Connecticut decision, to which I have referred, which go back a very considerable period of years and indicate a line of decision in the courts which, as long as we allow the practice to continue during all that time up to now, when we are considering a new way of doing it, it seems to me represents not only good law but good logic as well.

Now the Senate bill which we are debating today would propose to adopt yet another rule, and that is to break down the issue of what is the sovereignty which is safeguarding the particular enterprise which is issued today, and simply and arbitrarily given the right of escheat and the abandoned property right to the jurisdiction where the instrument was acquired, which Congress may be able to do if it is constitutional and which I am not really taking on as an issue. I am letting that stand on its own and letting it be litigated. But I do think that even that raises a very serious question which may not stand up constitutionally, for the reasons I have stated, because it is not rooted in any jurisdiction under the Constitution, and it may very well be taking property without due process of law, on the ground that the courts have held in this succession of cases that you really should go, when you cannot locate the creditor—and if you are going to refer it back to the debtor, you should go—to that place and under those considerations where the debtor has had life breathed into it and where there is some responsibility for the debtor's existence, rather than to the State of purchase, such as is provided prospectively by this law. As I say, I am not taking on that battle in this debate.

I repeat that the very reason that the Court's logical analysis of what would be a proper sense of justice in the situation goes back to a case such as this Connecticut Insurance case makes me believe that it is most unjust to predate this new plan, which does not have the support of the juridical reasoning of the courts, that to take that prospectively is a proper matter for consideration by Congress if it wants to do it, although it does not seem to make sense to me in terms of the juridical background which is here involved. To take the matter and date it back 10 years, notwithstanding the settled law—I mentioned a case which takes us back some 27 years as indicating the way in which the courts were thinking and the concept of the courts of what is an appropriate decision based on elements of justice—it seems to me is way out of line.

So I do believe—to sum up my views as I go on analyzing this case—that it is one thing to run afoul of the views of the courts as to what is an appropriate exercise of juridical reasoning in respect of these matters prospectively—and I am again stripping it of the issue of constitutionality. But it seems to be an extremely different matter when you date back that relative illogic for 10 years, notwitstanding the settled condition of the law during all that time, notwithstanding the assertion of many claims under the law, which claims exist today.

I might point out, because this seems to be kind of fuzzy, that the claims which are made in respect of escheat are not only claims by my State, the State of New York, but also, these claims have been asserted by Pennsylvania, California, Indiana, Virginia, Ohio, and Michigan. Those are the States we know about. There may be other States. Those particular States relate only to two debtors—Western Union and American Express. It is consequential to me, therefore, that this is an issue of broader scope than only my own State.

Indeed, one can conceive of similar claims being made by other States which are popular States for domiciliary corporation. One that immediately springs to mind is Delaware, and there probably are other States which feel that they have favorable receptivity to corporate organization.

The Court goes on in the Connecticut case, which I think is interesting because it goes back for a considerable time, and says:

> We are here dealing with a matter of constitutional power. Power to demand the care and custody of the moneys due these beneficiaries is claimed by New York, under Art. VII of the Abandoned Property Law as construed by its courts, only where the policies were issued for delivery in New York upon the lives of persons then resident in New York. We sustain the constitutional validity of the provisions as thus interpreted. . . .

We should bear in mind that what the Court is sustaining is the law of the State of New York, not the law of the United States, which was not involved there.

Here are the exceptions which they made to the constitutional validity of the provisions insofar as the State of New York is concerned. They said:

> We do not pass upon the validity in instances where insured persons, after delivery, cease to be residents of New York or where the beneficiary is not a resident of New York at maturity of the policy. As interests of other possible parties not represented here may be affected by our conclusions and as no specific instances of those types appear in the record, we reserve any conclusion as to New York's power in such situations.

Mr. President, it seems to me that that again shows that the Court was thinking about the validity of State laws and not the validity of a Federal law and, therefore, that the issue of a Federal law remains open and may very well be decided should this particular provision ever become law; that therefore, the constitutional question was, as the court said, New York's power to take over the care of abandoned money under those circumstances.

The Court concluded by repeating a statement which was made in the opinion of the court below, the Court of Appeals of the State of New York in that case, as this appeal was from that court:

For the core of the debtor obligations of the plaintiff companies was created through acts done in this State under the protection of its laws, and the ties thereby established between the companies and the State were without more sufficient to validate the jurisdiction here asserted by the Legislature.

It seems to me that that matter, again, goes to the essence of the controversy here, because the privity in the issuance of a money order or a traveler's check is between an entity called a corporation, which has a domicile—it is an entity into which life has been infused and which is living at a given place. Without that place and without that infusion of life, it would be nothing but an amorphous mass of individuals. It might be a partnership, and so forth, but that is not the point. It is an impersonal person.

It seems to me, therefore, that this leads very strongly to the proposition that where property is abandoned without any identification of the creditor—that is the supposition of the cases to which I am referring—and that, therefore, it is an abandoned asset in the hands of the debtor and should revert to the place where the debtor is located, and there is only one place where the debtor is located and that is in the State of the debtor's domicile.

The committee, in its bill, is seeking to depart from that prospectively to take us to the place where the contract is made. But one party to the contract is not to be found and the other party to the contract is to be found, and that party is not there; it is in the State of its domicile. Therefore, it seems to me strange, as a matter of law, to transfer title to the property which is then abandoned to any other place where it is in the possession of somebody, to wit, in the hands of the debtor in the place of its incorporation, which is its domicile.

Again, as I say, this bill which we are asked to consider runs against the grain in that regard. It runs against the grain even more where an effort is being made to make it retroactive, and that is exactly what happened here. There is an extensive dissenting opinion in the Connecticut case by Judge Frankfurter. There also is an extended dissent by Justices Jackson and Douglas in the same case.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I move to lay the amendment of the Senator from New York (Mr. JAVITS) on the table.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from New York.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I demand the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay the amendment of the Senator from New York on the table. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from Michigan (Mr. HART), the Senator from Indiana (Mr. HARTKE), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Iowa (Mr. HUGHES), are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG), and the Senator from Georgia (Mr. TALMADGE), are absent on official business.

I also announce that the Senator from Hawaii (Mr. INOUYE), is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. PEARSON) is absent on official business.

I further announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Oregon (Mr. PACKWOOD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 73, nays 10, as follows:

[No. 45 Leg.]

YEAS—73

Abourezk	Eagleton	Moss
Aiken	Ervin	Muskie
Allen	Fannin	Nelson
Bartlett	Fong	Nunn
Beall	Goldwater	Proxmire
Bellmon	Griffin	Randolph
Bennett	Gurney	Ribicoff
Bentsen	Hansen	Roth
Bible	Haskell	Schweiker
Biden	Hatfield	Scott, Hugh
Brock	Helms	Scott, William L.
Burdick	Hollings	Sparkman
Byrd, Harry F., Jr.	Hruska	Stafford
Byrd, Robert C.	Humphrey	Stennis
Cannon	Jackson	Stevens
Chiles	Johnston	Stevenson
Clark	Magnuson	Symington
Cook	Mansfield	Taft
Cotton	Mathias	Thurmond
Cranston	McClellan	Tower
Curtis	McGovern	Tunney
Dole	McIntyre	Weicker
Domenici	Metzenbaum	Williams
Dominick	Mondale	Young
	Montoya	

NAYS—10

Buckley	Kennedy	Pastore
Case	McClure	Pell
Hathaway	McGee	
Javits	Metcalf	

NOT VOTING—17

Baker	Gravel	Long
Bayh	Hart	Packwood
Brooke	Hartke	Pearson
Church	Huddleston	Percy
Eastland	Hughes	Talmadge
Fulbright	Inouye	

So Mr. TOWER's motion to lay on the table Mr. JAVITS' amendment was agreed to.

Mr. JAVITS. Mr. President, I would like to say a few words. In a situation involving a vote such as this, one can either be bitter or philosophical. I prefer the latter. However, I do think that while Members are here, because I am philosophical and I do not get mad at anyone, I would like to say something which I think we all ought to take to heart and think about.

Here is a situation in which at the worst a number of other States are involved. The State of New York has won a legal victory in the Supreme Court on a highly controverted question.

It was thought that the law was settled in 1965. However, it was not. So another case was necessary. They finally locked it in 1972. And that case was decided for New York in the case of Pennsylvania against New York.

If this bill passes—as it obviously will, if I stand up here and talk for days and introduce embarrassing amendments and so on, sometime before too long the bill will pass.

What does the bill do? This bill strips New York of the protection of the Supreme Court case. It is the victim. That is what it does. While we do not argue about what the Senate intends to do prospectively in reference to this particular matter, it does have retroactivity for 10 years.

I hope that Members will hear this. It is like the two-digit inflation that Arthur Burns is talking about. It is a danger signal.

Why was the bill put in with 10 years' retroactivity? It was done simply because those who propose the bill believe that only so many States have a little interest, because there is not really all that much involved, and they will go along with it. It will be 40 against 1, 48 against 2, or 45 against 5.

I would like to express my gratitude to those nine Senators who voted with me, including both Senators from Rhode Island.

My colleagues should think about this matter. We should not encourage naked power to prevail. The Supreme Court decided this issue on juridical principles. It was decided on those juridical principles that this was the right way in which this particular matter should be adjusted. That was the law from 1965 on and was confirmed in 1972. The State of New York won a victory and now it is robbed of that victory simply by the exercise of naked power and self-interest.

As I said, one can be bitter or philosophical. I prefer to be philosophical. However, I want to make it clear to my colleagues that this is the test of an autocracy and those who take over power, as Adolf Hitler, Stalin, and all others in their time. Democracy will ultimately break down because of a scramble over who gets what and the self-interest of human beings.

Mr. President, we have on occasion established great nobility in this Chamber in respect of a particular measure which we pass notwithstanding the fact

that only one individual is interested. Those occasions are high points for the Senate of the United States.

I only lay out this set of facts. As I say, I am not angry or bitter about it because I think it is a lesson which we should all learn.

Someone else's State may be the next State up. Senators can say, "There but for the grace of God go I." There is a very deep and proper human principle involved.

I do not expect miracles. I am not living in a mirage. I know that on occasion self-interest has to be expressed in this Chamber. It can be said of me that I talked for a day and a half on the bill. My State had an interest and I was trying to defend that interest. However, there are connotations beyond that.

So, while I do not believe the Republic will fall, I think that this is a case in point in which I had preferred, because my ox was being gored, that the Senate take this matter to heart and give it the deepest of consideration.

The situation will continue for a while and then it may be someone else's State. I believe that we should consider this experience as a case in point.

Mr. HANSEN. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank my distinguished friend, the Senator from New York, for yielding.

I rise to point out a couple of things. First of all, I admit that I did not know much about the background of this bill. I was not adequately briefed on the matter. I can plead guilty only to the fact that we have been busy and have been holding hearings on a number of energy bills. We had oversight hearings yesterday.

I have no doubt at all that had I been here and had other Senators been on the floor and heard and participated in the debate, the final vote, I say to my good friend, the Senator from New York, could have been different than it was. The results might have been the same. However, I rather suspect that the vote might well not have been as lopsided as it was.

My only point and my only observation is to say that I can appreciate full well the frustrations which the Senator might feel, and I commend the Senator for his statement that was so genuinely and graciously made.

Not many days ago in this same Chamber, we had several votes on an energy bill. At that time all of us, as the distinguished Senator from Minnesota (Mr. HUMPHREY) has so often said, were headline educated. We did not know what the facts were behind the energy crisis in this country. We did know that there were lots of long lines in front of service stations that were open. We know that there were many frustrations experienced by people who were unable to buy gas when they wanted to buy it and where they wanted to buy it. Yet, as oftentimes happens, it is only when the final vote comes that we are here to hear what is said.

I was sorry that I could not get over here sooner, because I would like very much to have heard what was said by the senior Senator from New York, a man for whom I have the greatest respect and admiration—I could add parenthetically a man with whom I do not often vote, but nevertheless admire his ability and his intelligence.

It is unfortunate. I do not know how the situation could be changed. We never get here very much before a vote, and things which are important to hear and need to be better understood are oftentimes learned after, not before, we vote.

So I hope that it might be of some comfort to my distinguished colleague from New York to assure him that I know what he is talking about. I must say that at times I, too, am concerned about the ability of democracy to govern well and to chart a course that will insure the future of our country.

I always have to think back and ask myself, am I objective in my appraisal of this old ship of state? It does not move very fast. It is squeaky, and it is slow in changing course; but nevertheless, for reasons and in response to forces beyond my comprehension to evaluate and even at times to discern, it seems that we still are afloat, and I, despite the inability of some of us to hear what needs to be heard, I still have faith in this country as I know, indeed, the Senator from New York has.

Mr. JAVITS. Mr. President, I thank my colleague for his intercession. I certainly do have faith in this country; I would not say the things I say if I did not.

But I feel that, like every other person or institution in which we have faith, it constantly needs to be reminded of its duties and its origin. And while there are a few Members here—Senator TOWER and I have been speaking pretty much to empty walls—I would like to take just a minute to state what this bill is about and what the argument is all about.

It comes down to simply this: For 10 years, since the Supreme Court decided that case in 1965, there has been a rule on the books that where a traveler's check or a money order was issued to an individual after being bought from a particular entity like American Express or Western Union, and somehow or other the recipient of that particular money order or traveler's check failed to get the money, failed to cash it or to receive it when it was delivered at the other end of the line, and no record was available of his name or address, the State of incorporation of the issuing company was entitled, after the necessary statutory period, to escheat the money as abandoned property from the issuing company.

That was the law for 10 years, up until now. Now this bill proposes to change that law by making the State where the money order or traveler's check was bought the State which will escheat or take over the abandoned property.

And we are not objecting to that. But an effort is made in his bill to antedate it by 10 years; in other words, to take it back to the time when the Supreme Court made its decision, and that is the iniquity. That is what I am crying out against, and that is the reason I made the speech I did, because that is just the application of naked power to change a juridical finding upon logic and law.

In my judgment, therefore, what I said was valid from that point of view, and that is the whole case. Since these are open secrets openly arrived at, I will talk with the attorney general of my State, and if he feels as I do, that this is about the end of the road, permit it to be voted up or down, and that will be the end of it. But I hope very much that Senators will at least do themselves the justice of taking a look at the facts.

Mr. BUCKLEY. Mr. President, will the Senator yield?

Mr. JAVITS. Yes, that is all. I yield.

Mr. BUCKLEY. I want to associate myself with the remarks of my colleague. In representing the interests of our constituents, I think sometimes we tend to lose sight of the important principles at stake. There is not very much money involved; and no one is quarreling with the recommendation of the committee that the law should be changed as defined by the Supreme Court.

But we do have the principle of retroactivity, and I believe a larger principle of constitutionality. After all, property rights have vested under the law as it has now been defined by the U.S. Supreme Court, and I understand the sponsors of the bill are not even willing, to protect those vested rights, to stipulate that this bill will go back to only the point where the various escheat laws of the respective States do not take over.

I think, frankly, that this is an unquestionable breach of our obligation to protect the concept of property rights in this country. So I commend my senior colleague for his lonely fight. I am surprised that California has not joined in; I understand that the Bank of America issues a few traveler's checks. I understand that there is a bank in Virginia that issues traveler's checks.

But that is not of primary importance. What is important is that we do not reach so far back into the past that we upset property interests that have legitimately vested under the law of the land.

Mr. JAVITS. Mr. President, I thank my colleague. It was not a lonely fight; he joined me in it.

Mr. WILLIAM L. SCOTT. Mr. President, will the Senator yield?

Mr. JAVITS. I yield to the Senator from Virginia.

Mr. WILLIAM L. SCOTT. Mr. President, I thank the distinguished Senator for his explanation, and for his efforts to represent the best interests of his State.

I would like to say to the Senator that someone recently had a cloture motion that he wanted me to sign, and I declined to sign that cloture motion. I would say to the Senator that, contrary to the statement he made a few moments ago that his continued speaking would not change anyone's vote, I think there is a possibility that if he could continue on this subject beyond the 9th of March there might be a great number of Senators who would be willing to reexamine their positions on this matter. I would

say that I would personally reexamine my own position.

As the distinguished Senator well knows, the executive pay raises go into effect unless one body of Congress decides that they should not go into effect, and I would encourage the distinguished Senator from New York to go on and on.

Mr. JAVITS. May I say to my colleague from Virginia that there will be a similar opportunity on the very resolution which deals with the pay raise, and then apparently there will be a lot more allies and it would be an easier job. I think I shall forgo that; but now, unless other Senators wish to speak, I suggest the absence of a quorum.

Mr. SPARKMAN. Mr. President, will the Senator withhold that?

Mr. JAVITS. I withdraw it.

Mr. TOWER. Mr. President, does the Senator from New York have any more amendments to offer?

Mr. JAVITS. I may. I was just about to suggest the absence of a quorum momentarily.

Mr. SPARKMAN. Mr. President, because I am going to have to leave in a short time, I would like to say just a few words in view of some of the things that have been said.

Mr. PASTORE. Mr. President, we cannot hear the Senator.

Mr. SPARKMAN. I see that my friend from Wyoming is still here.

Mr. HANSEN. On which side?

Mr. SPARKMAN. He is on the Democratic side right now. We welcome him.

This is a difficult bill, and the Senator from New York knows that after this bill was introduced we negotiated a great deal in trying to arrive at an agreement.

It is true that the Supreme Court in 1965 made the ruling that the Senator from New York has related, and in 1972 it considered the case again. In the 1972 decision, Justice Powell, if I recall correctly, wrote a dissenting opinion in which he suggested this method of handling this vexatious case. I do not believe anyone could say that this bill, as it is prepared, is bad. There can be a question—and this is what the Senator from New York is basing his argument on primarily—as to the time it should be effective.

Under the bill, we made it effective as of 1965, at the time the Supreme Court handed down its first decision.

I wonder whether everyone realizes how this is operated.

Let me say to the distinguished Senator from Wyoming (Mr. HANSEN) that if one of his constituents went to the American Express office there and bought a money order or a traveler's check and paid good Wyoming money for that, right there in Wyoming, under the version of the Senator from New York, if that money order or traveler's check had never been used and the time had gone by so that it had ripened into an escheat, and his address was not known, it would have escheated not to Wyoming, where the money came from and where the person lived, but would have escheated to the corporate office of the American Express Co.—which happens to be in New York.

Why should the citizens from Rhode Island, Virginia, Wyoming, North Carolina, Maine, Alabama, and all the other States of the Union who had bought and paid good money for these money orders and traveler's checks not have their States benefit if and when these items are deemed abandoned?

When it escheated, why should it escheat to the State of New York instead of to the State from which the money came?

This bill creates the presumption that the State in which the travelers check or money order is purchased is the address of the purchaser and is eligible to escheat in the event the paper is later deemed abandoned.

That is a simple statement of this legislation. I just hope that no one misunderstands what I have said. This was not willfully established, I say, but just from a recital of the facts, I feel that we have done just as Justice Powell suggested. This bill does provide equitable distribution because it goes back to the State from which it originated, and not to the corporate office of the issuing agent.

Mr. President, that is all I care to say.

Mr. HANSEN. Mr. President, will the Senator from Alabama yield?

Mr. SPARKMAN. I yield.

Mr. HANSEN. Mr. President, may I say that though I have been in the Chamber only a little while, I certainly know more now than I did as I came in to vote. The Senator may know that I voted to table the motion by the Senator from New York. I am not persuaded that I voted wrong yet.

Mr. SPARKMAN. I am glad the Senator from Wyoming stuck around. [Laughter].

I thank the Senator from New York for withholding his quorum call so that I could make these few remarks.

Mr. JAVITS. Mr. President, I should like to reply to the Senator from Alabama in the following way: If we are going to go by minority decisions of the Supreme Court, that will really send American justice and American legislation into a tailspin.

The case to which the Senator referred, Pennsylvania against New York, which was decided 6 to 3—and Justice Powell was one of the three dissenters—but six deciding, that the proper juridical rule was to escheat to the State where the debtor was domiciled—to wit, in that case, the American Express Co.

So I really do not think in any way that counts as my point that we are vacating and annulling the decision of the Supreme Court made on an express juridical principle. We cannot hope for unanimity if we say that law is not what the majority says but what the minority says. As I say, that would be the end of the Supreme Court and the end of government. But even beyond that, Senator, I have no complaints about Congress adopting the Powell theory. I may not agree with it. I may not like it. I think there are very good arguments against it, especially those made by the Supreme Court; but if that is the way Congress wants to go, we will go that way.

What I was objecting to was the retroactivity, the annulling, which I think is a dangerous idea—in cold blood, as it were, annulling the Supreme Court judgments based on straight juridical reasoning. The interpretation of the statute or anything else called for the Supreme Court evaluation as to what was an equitable way to dispose of the controversy. To annul that for 10 years back seemed to me to be an extremely dangerous idea.

Mr. PASTORE. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. PASTORE. Has any of this money escheated to the domiciled corporation between 1965 and the present moment?

Mr. JAVITS. It must have, because even in their bill they exempt——

Mr. PASTORE. My question is specifically this: What happens in that particular case?

Mr. JAVITS. This bill expressly exempts money paid over. As a matter of fact, it should, by way of escheat under existing rules of law, according to the Supreme Court. The bill says that that money—this bill does not reach that money—it is not recoverable—in other words, the argument is on retroactivity because we allow the State which is collecting it to keep it just because of the happenstance that it did collect it, yet on the last principle you say it is wrong, you should have collected it, but we wipe it out for 10 years.

Mr. PASTORE. The question I asked is this: In view of the fact that this is exempted under the bill, does not the argument against or for retroactivity become a moot question?

Mr. JAVITS. No, it does not, because there is still money outstanding. In other words, many of these escheats and abandonments have not been paid. A number of claims have now been filed by the various States. I gave a list, some little while ago, of the various States which had filed claims with two companies—Western Union and American Express. Payment had not actually been made. It is not moot. It remains a burning question enough to have brought the case to the Supreme Court as between New York and Pennsylvania.

QUORUM CALL

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HATHAWAY). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PAY RAISE BILL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the measure to be reported by the Post Office and Civil

Service Committee, having to do with a pay raise for those in the Government employ, be made the pending business at the conclusion of morning business tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUORUM CALL

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 7824) to establish a Legal Services Corporation, and for other purposes.

ORDER FOR CONVENING AT 10 A.M. TOMORROW AND FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate convenes tomorrow, it convene at the hour of 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. And I ask unanimous consent that there be a period for the conduct of morning business for not to exceed 15 minutes, with a time limitation of 3 minutes on statements attached thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISPOSITION OF ABANDONED MONEY ORDERS AND TRAVELER'S CHECKS

The Senate continued with the consideration of the bill (S. 2705) to provide for the disposition of abandoned money orders and traveler's checks.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TOWER). Without objection, it is so ordered.

ALEKSANDR SOLZHENITSYN—ADDITIONAL COSPONSORS OF JOINT RESOLUTION

Mr. HELMS. Mr. President, I ask unanimous consent that the names of the distinguished Senator from Wisconsin (Mr. NELSON), the distinguished Senator from Texas (Mr. TOWER), the distinguished Senator from Connecticut (Mr. RIBICOFF), and the distinguished Senator from Georgia (Mr. NUNN), be added to the cosponsors of Senate Joint Resolution 188, a joint resolution to authorize the President to declare by proclamation Aleksandr I. Solzhenitsyn an honorary citizen of the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, Aleksandr Solzhenitsyn's new book, "The Gulag Archipelago," has not yet been published in English, although it has been published in Russian by the YMCA-Press in Paris. There have been several descriptions of its contents in news accounts, and all attribute to it great power and a great sense of outrage against the system that drives men to live a life of lies in order to circumvent terror and repression. Fortunately, however, we are able to get a direct sample of Solzhenitsyn's work in four short excerpts that appeared in installments in the New York Times.

To read these is to experience Solzhenitsyn's sense of outrage. What he is trying to tell us here is that the distortion of human personality and the repression of the spirit that takes place under communism is inherent in the nature of the system. The cruder forms of terror may no longer be in widespread use; but Solzhenitsyn is saying that the brutality of spirit is still there. Effective control throughout the system makes widespread terror no longer necessary. But controls on personal freedom of movement and freedom of thought and expression are still inherently necessary. The Communists are willing to manipulate human personality and repress fundamental human freedoms. The structure of terror is still there, waiting beneath the surface. And communism forces all those who live under it and who deal with it to live out the lie that nothing is wrong.

Mr. President, I ask unanimous consent that the four excerpts from "The Gulag Archipelago," be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Dec. 30, 1973]

"THE GULAG ARCHIPELAGO": SOLZHENITSYN GIVES AN ACCOUNT OF SOVIET PRISON SYSTEM

(By Aleksandr I. Solzhenitsyn)

This I dedicate
To all of those who did live
to tell of it.
And may they please forgive me
for not having seen it all
nor all remembered;
for not having divined all of it.

For years I have with reluctant heart withheld from publication this already completed book. My obligation to those who are still alive outweighed my obligation to those who are dead. But now that the State Security has seized this book anyway I have no alternative but to publish it immediately.

In this book there are no fictional persons, nor fictional events. People and places are named with their own names. If they have been identified by initials instead of names this is out of personal considerations. If they are not named at all then this is because human memory has failed to preserve their names.

But it all took place just as it is here described.

In 1949 some friends and I came upon a news item in the magazine Pirroda [Nature] of the Academy of Sciences. It reported in tiny letters that in the course of excavations on the Kolyma River a subterranean ice lens, actually a frozen ancient stream, had been discovered—and in it were found frozen specimens of prehistoric fauna some tens of thousands of years old. Whether fish or lizard these were preserved in so fresh a state that those present immediately broke open the ice and devoured them with pleasure on the spot.

As for us, we understood instantly. We could picture the entire scene down to the smallest detail: how those present broke the ice with tense haste; how, flouting the lofty interests of ichthyology and elbowing each other to be first, they tore off pieces of the prehistoric flesh and dragged it over to the bonfire to thaw it and bolt it down.

We understood instantly because we ourselves were the same kind of people as those present at this event. We, too, were from that powerful tribe of "zeks" [prison camp inmates], unique on the face of the earth, the only kind of people who could devour prehistoric lizard with pleasure.

The Kolyama was the greatest and most famous island, the ferocious extremity of that surprising country of Gulag [the Soviet labor camp system], which though in terms of geography scattered out as an archipelago, was in terms of psychology fused into a continent—an almost invisible, almost imperceptible country inhabited by the zek people.

This archipelago cut across and speckled the country within which it was located like a checkerboard. It carved out enclaves in cities, hovered over streets—and yet there were many who did not even guess at its presence and only those who had been there knew the whole truth.

NOT HISTORY OF ARCHIPELAGO

I would not be so bold as to try to write the history of the archipelago. I have never had the chance to read the documents. And will, in fact, someone someday ever have the chance to read them? Those who do not wish to *recall* have already had enough time—and there will be more—to destroy all the documents to the very last one.

My own 11 years spent there I have absorbed into myself not as something shameful and not as a nightmare to be cursed; I have almost come to love that deformed world. And now, by a happy turn of events, I have been entrusted with many recent stories and letters.

This book could never have been created by one single person alone. It contains, in addition to what I myself was able to take away from the archipelago—on the skin of my back and in mind's eye—the material in stories, memories, and letters of 227 other human beings.

But the time has not yet come when I dare name them.

The old Solovetsky Islands prisoner Dmitri Petrovich Vitkovsky was to have been the book's editor. But his half a lifetime spent *there*—indeed his own camp memories are entitled "Half a Lifetime"—resulted in untimely paralysis. It was only in a state in which he was deprived the gift of speech that he was able to read at least several chapters and see for himself that everything *would* be told.

If freedom does not come to my country for a long time in the future then the very reading and handing from person to person

of this book will be very dangerous—so that I am bound to salute future readers as well—on behalf of *those others* who have perished.

How is it that people get to this clandestine archipelago?

Those who, like you and I, dear reader, go there to die, can get there solely and obligatorily via arrest.

The universe has as many different centers as there are in it living beings. Each of us is a center of creation, and the universe is shattered when they hiss at you: *"You are under arrest."*

Arrest is the sharp nighttime ring or the rude knock at the door. It is the insolent entrance of unwiped jackboots of the brassy security operations men. It is the frightened and beaten-down civilian witness behind their backs.

The traditional arrest is also what happens afterward when the poor victim has been taken away. It is the breaking, tearing and tossing off the walls, the hurling of things onto the floor from wardrobes and desks, the shaking, dumping out, and tearing apart of things.

During the arrest of Inoshin, a locomotive engineer, there stood in his room a coffin containing the body of his child who had just died. The "law officers" threw the child's body out of the coffin and searched it. They shake sick people out of their sickbeds and they unwind bandages to search beneath them.

When in 1937 they wiped out Dr. Kazakov's institute, the "commission" broke up vessels containing the lysates developed by him, even though patients who had been healed and others in the middle of the healing process begged them to preserve the miraculous medicines. (According to the official version the lysates were supposed to be poisons in which case why should they not have been preserved as material evidence?)

From our greatest expert on Tibet, Vostrikov, they seized valuable ancient Tibetan manuscripts; and it took his pupils 30 years to tear them out of the hands of the K.G.B.! When the Orientalist Nevsky was arrested they seized Tangut manuscripts—and 25 years later the deceased victim was awarded posthumously the Lenin Prize for deciphering them. From Krager they took his archive of the Yenisei Ostvaks and put a veto on the alphabet and vocabulary he had developed for his people—and a small nationality was left without any written language.

SOMETHING WAS NEVER THERE

In any intellectual way of speaking it would take a long time to describe all this, but there's a folk saying about search that covers the subject: *They are looking for something that was never put there.*

For those left behind there is the long tail of a wrecked and devastated life. And the attempt to deliver food parcels. But the answer comes from the windows in barking voices: "There is no one here by that name!" "We never heard of him!" Yes, and just to get to that window in the worst days in Leningrad took five days of standing in line. Maybe only after half a year or a year does the arrested person respond at all, or else they toss out: "Deprived of the right to correspond." That means—once and for all. "Deprived of the right to correspond" indicates, almost without fail, "Has been shot."

Arrests are various in their form. Irma Mendel, a Hungarian woman, obtained through the Comintern in 1926 two front-row tickets to the Bolshoi Theater. The prosecutor Klegal was courting her and they spent the performance together very affectionately. After this he took her—straight to the Lubyanka.

If on a flowering June day in 1927 on Kuznetsky Most the full-faced red-headed beauty Anna Skrypnikova, who had just bought herself some navy blue cloth for a suit, climbed into a hansom cab with a young man about town, well, it wasn't a lover's rendezvous at all as the cabman understood. It was an arrest.

Do not think that if, for example, you are an employe of the American Embassy by the name of A. D. [Alexander Dolgun] you cannot be arrested in broad daylight on Gorky Street right by the Central Telegraph Office. Your unfamiliar friend calls to you right across the crowd: "Saaasha!" He simply shouts at you: "Hey fellow! Long time no see! Come on over here, let's step out of the way." And at that moment a Pobeda sedan comes up to the edge of the sidewalk. Several days later Tass will make a wrathful declaration in all papers that competent circles of the Soviet Government allegedly have no information on the disappearance of A. D. What's so unusual about that?

ANY ONE CAN ARREST YOU

You are arrested by a religious pilgrim who has stayed "for the sake of Christ" with you overnight. You are arrested by a meterman who has come to read your electric meter. You are arrested by a bicyclist who has run into you on the street, by a railway conductor, a taxi driver, a savings bank employe, a cinema theater administrator. Any one of them can arrest you, and you notice the concealed maroon-colored identification only when it is too late.

In 1937 a woman came to the reception room of the Novocherkassk N.K.V.D. to ask what she should do with the unfed nursing child of her arrested neighbor. They told her: "Sit down, we'll find out." She sat there for two hours; then they took her and tossed her into a cell.

The listing that follows, in which waves of millions of arrested persons are given equal attention with ordinary streamlets consisting of handfuls of people, is quite incomplete, quite sparse and miserly, limited by my own capabilities of penetrating into the past.

In his essay entitled "How to Organize the Competition," published on Jan. 7 and 10, 1918, V. I. Lenin proclaimed the common, united purpose of a *"purge* of the Russian earth of all harmful insects."

Within the term of *insects* he included not only all class enemies, but also "workers, malingering at their work," for example, typesetters at the Petrograd party printing plants. The railroads were a particularly important place for there were many insects hidden beneath railway uniforms, and they had to be "jerked out" and some of them "slapped down." And telegraph operators—for some reason, these, in their mass, were inveterate insects.

CLASSIFICATION OF EXECUTIONS

In thinking about the period from 1918 to 1920 we are in difficulties; should we classify among the waves of prisoners all those done in before they even got to the cells? And in what classification should those be put whom the Committees of the Poor took off behind the wing of the village soviet or in the rear of a courtyard, and finished off there?

Besides the repression of the famous rebellions (Yaroslavl, Murom, Rybinsk, Arzamas) we know of certain events only by their name—for instance the Kolpino executions in June, 1918. What is it? Who was it? And where should it be classified?

There is also no little difficulty in deciding whether one should classify among the waves of prisoners those tens of thousands of *hostages,* those people not accused of anything at all personally, those peaceful inhabitants not even listed by name and taken off to destruction only for the sake of terror.

But we can make a note that by the spring of 1918 there had already begun a long-lasting, many-year-long, incessant torrent [of arrests] of "socialist traitors." All these parties—the Social Revolutionaries, the Mensheviks, the Anarchists, the Popular Socialists—had for decades only pretended to be revolutionaries; they had only worn socialism as a mask, and for this they had gone to hard labor.

"We learn of individual arrested groups from the protests of the writer Maxim Gorky. On Sept. 15, 1919, Lenin advised Gorky "not to spend his energy whimpering over rotten intellectuals."

Most of the removals of people from villages in Tambov Province took place in June, 1921. Throughout the province concentration camps were set up for the families of peasants who took part in the revolts. Open fields were enclosed with barbed wire and for three weeks they held there every family of a suspected rebel. If in three weeks the man of the family did not come in order to buy his family's way out with his own head, they sent the family to exile.

In the spring of 1922 the Extraordinary Commission for Struggle with Counterrevolution and Speculation, the Cheka, just renamed the G.P.U., decided to intervene in church affairs. For this reason the Patriarch Tikhon was arrested and two resounding trials were held with subsequent executions, in Moscow, of the disseminators of the Patriarch's appeal, and in Petrograd, of the Metropolitan Veniamin.

As Tanya Khodekevich wrote:

You can pray freely
But just so only God can hear.

And for these verses she received a sentence of 10 years.

Among the wives and daughters of nobility and officers were some women of outstanding personal qualities and attractive appearance. Some offered their services to the Cheka-G.P.U. as informers. Here one can name the last Princess Vyazemskaya, a prominent post revolutionary informer—her son on the Solovetsky Islands also was an informer. Konkordiya Nikolayevna losse was a woman, evidently, of brilliant qualities; her husband was an officer who was shot in her presence, and she herself was exiled to the Solovetsky Islands, but she managed to beg her way out and to set up near the Lubyanka a salon that the bosses of this establishment loved to visit. She was arrested again in 1937 with her Yagoda customers.

GRANDIOSE TRIAL PREPARED

Following the trial of the Promparty (the so-called Industrial party) a grandiose trial of the Working Peasants' Party (T.K.P.) was being prepared in 1931. The interrogation apparatus of the G.P.U. was working faultlessly: thousands of defendants had confessed in totality their participation in the criminal plans of the "T.K.P." No fewer than 200,000 "members" had been promised by the G.P.U. All of a sudden Stalin one lovely night changed his mind. All the persons who had "confessed" were told they could renounce their confessions. (In 1941 the T.K.P. "resurfaced" when the tortured scientist Nikolai Ivanovich Vavilov was accused of having secretly been its head.)

And then—slowly, it is true, but surely—the turn came for members of the ruling party to spend time in prison!

From 1927 to 1929 there was the issue of the "worker's opposition," in other words the Trotskyites. They numbered, for the time, in the hundreds, and soon there would be thousands.

At the end of 1929 began the famous gold rush.

Who was arrested in the "gold" wave? All those who at one time or another time, 15 years before, had had a private "business," had been involved in retail trade, had caused

wages at a craft, and could have, according to the G.P.U.'s deductions, hoarded gold. All were arrested. It even got to such a state of confusion that men and women were imprisoned in the same cells and went to the toilet in each others' presence. They had one universal method: to feed the prisoners only salty food and not to give water. Whoever coughed up gold got water! One gold piece for a cup of fresh water! But it was a mistake to give up too easily. They would refuse to believe that you had coughed it all up. But you'd be wrong to wait too long, you'd end up by kicking the bucket.

AN ETHNIC CATASTROPHE

So it was that the waves foamed and rolled—but across all of them there billowed and gushed in 1929–1930 the multimillion wave of "dispossessed kulaks." It was immeasurably large and it went straight to transit prisons and points, onto prisoner transports, into the Gulag country. There was nothing to be compared with it in all Russian history. It was a forced resettlement of a whole people, an ethnic catastrophe.

In this wave from the start they uprooted only whole nests, only whole families; and they even sought jealously to prevent any of the children—14, 10, even 6 years old—from getting away. This was the first such experiment, in any case, in modern history. It was subsequently repeated by Hitler with the Jews, and again by Stalin with nationalities that were disloyal to him or suspected by him.

Then the Kirov wave from Leningrad began. It is estimated that one quarter of Leningrad was purged—cleaned out—in 1934–35. Let this estimate be disproven by those who have the exact statistics and who are willing to publish them.

During the last years of Stalin's life a wave of Jews began to be noticeable. From 1950 on they were hauled in little by little as *cosmopolitans*. And it was for this that the *doctors'* plot was cooked up. It would seem that Stalin intended to arrange a great massacre of the Jews.

According to Moscow rumors, Stalin's plan was this: at the beginning of March, 1953, the "doctor-murderers" were to be hung on Red Square. The aroused patriots, naturally led by instructors, were to rush off into an anti-Jewish program. And at this point—and here Stalin's character can be divined, don't you agree?—the Government would intervene generously to save the Jews from the wrath of the people, and on that very same night remove them from Moscow to the Far East and Siberia, where barracks were already prepared for them.

However, this became the first plan of his life to fail. God told him to depart from his rib cage.

Paradoxically the entire activity of the police organs was based on solely one section out of 140 sections of the nongeneral division of the Criminal Code of 1926, Section 58.

Point Thirteen, seemingly long out of date, was of service in the Czarist secret police—the "okhrana."

There are psychological reasons for suspecting Stalin of having been liable to trial under this point of Section 58. By no means all the documents referring to this type of service survived February, 1917, and became matters of public knowledge. V. F. Dzhunkovsky, a former inspector of the Police Department, who died on the Kolyma, declared that the hurried burning of police archives in the first days of the February Revolution was a cooperative effort on the part of certain interested persons.

One of Stalin's favorite themes was to ascribe to every arrested Bolshevik, and, in general, to every arrested revolutionary, service in the Czarist okhrana.

Was this merely his intolerant suspiciousness? Or was it an intitution, by analogy?

What scholar of the laws, what criminal historian is going to cite for us verified statistics of the 1937–38 executions? Where is that *special archive* into which we might be able to penetrate in order to read off the figures? There is none. There is none and there never will be. Therefore we dare to repeat merely those figures from rumors quite fresh at the time, in 1939–1940.

The Yezhov men said that during those two years of 1937 and 1938 *half a million* "political prisoners" had been shot throughout the Soviet Union, and in addition 480,000 blatari, habitual thieves. What's so fantastic about that it is even an understatement! (According to other rumors 1.7 million people were shot by Jan. 1, 1939.)

How many there actually were in the archipelago one cannot know for certain. It is quite believable to think that at any one time there were not more than 12 million (as some departed beneath the sod, the "machine" kept bringing in replacements). And not more than half of them were politicals.

Six million? Well, that is the equivalent of a small country, Sweden or Greece.

[From the New York Times, Dec. 30, 1973]

"THE GULAG ARCHIPELAGO, 1918–1956"—SOLZHENITSYN ON PURGE TRIALS OF THE 30's

(By Aleksandr I. Solzhenitsyn)

It is not for me to tell the reader but for the reader to tell me just what there was to the notorious "riddle of the Moscow trials of the thirties."

After all, they brought into open trial not the 2,000 dragged into involvement in it, nor even 200 to 300, but only eight persons. It is not so hard to direct a chorus of just eight persons.

So where is the riddle then? How they were worked over? Very simply; do you want to live? (And even those who do not care about themselves, care for their children or grandchildren.) Do you understand that it takes no effort at all to have you shot, without your ever leaving the courtyards of the G.P.U.? But both for you and for us it is useful to have you act out a certain drama. The condition is that you have to carry all our conditions out to the very last! The trial must go on for the good of socialist society.

That is how the public trials were manufactured. Stalin's searching mind once and for all attained its ideal.

People have written about a Tibetan potion that deprives a man of his will, and of the use of hypnosis. Such explanations must not by any means be rejected: if there were such means in the hands of the N.K.V.D. it is clear that there were no moral rules to prevent resort to them. Why not weaken or muddle the will. And it is a known fact that in the twenties important hypnotists left off theatrical performances and went into the service of the G.P.U. It is reliably known that in the thirties a school of hypnotists existed in the N.K.V.D. The wife of Kamenev received an appointment with her husband before the trial itself and found him retarded in reactions, not himself. (And she managed to communicate this to others before being arrested herself.)

The party leaders on trial in 1936 to 1938 had had in their revolutionary past short, easy imprisonments, short periods in exile, and they had never even had a whiff of hard labor. Bukharin had many petty arrests on his record, but they amounted to nothing.

Yagoda was an obviously criminal type. This millionaire and murderer simply could not imagine that his superior murderer up on high would not stand up for him, protect him, at the last moment. Just as if Stalin were sitting right there in the hall, Yagoda self-confidently and insistently begged him directly for mercy: "I appeal to you! For you I built two great canals!"

And one who was present recounts that just at that moment through a window on the second floor of the hall, seemingly behind a muslin curtain, in the shadows flared a match and, while it lasted, the outlines of a pipe could be seen.

That person who out of the distance of time seems from among all the disgraced and executed leaders to have been the highest and brightest mind of them all—to whom, evidently, Arthur Koestler dedicated his talented study ("Darkness at Noon")—was N. I. Bukharin. Stalin saw through him too, and Stalin held him in a long death grip and even played with him, like a cat with a mouse.

Bukharin did not like Kamenev and Zinoviev, and when they were tried the first time, after the murder of Kirov, had said to those close to him: "Well what? They were such people that maybe there was something to it."

At the December [1937] Plenum of the Central Committee they brought in Pyatakov with teeth knocked out and not a bit like himself. Behind his back stood mute Chekists (Yagoda men, and Yagoda, after all was being tested out and prepared for a role too).

Pyatakov delivered the most repulsive sort of evidence against Bukharin and Rykov. Ordzhonikidze put his hand up to his ears (he was hard of hearing): "Say here, are you giving all this testimony *voluntarily?*" (Note that down! Ordzehonikidze will get a bullet of his own!) "Absolutely voluntarily," and Pyatakov swayed on his feet. And in the intermission Rykov said to Bukharin: "Tomsky had will power. He understood back in August and he ended his own life. And you and I, like fools, have gone on living."

AND BUKHARIN BELIEVED HIM

Unshaven, thin and wan, already a prisoner in his appearance, Bukharin dragged himself along to the plenum. "Just what were you thinking of?" dear Koba asked him cordially. "Come on now. No one is going to expel you from the party!"

And Bukharin believed him, and revived. But during the course of the plenum Kaganovich and Molotov, impudent fellows they were indeed, paid no attention to Stalin's opinion! Both called Bukharin a fascist hireling and demanded he be shot. (See what a wealth of information we are being deprived of because we are protecting Molotov's noble old age.)

How many wars Russia has been involved in! And were there many traitors in all those wars? Was it ever observed that treason had become deeply rooted in the hearts of Russian soldiers? And then, under the most just social structure in the world, came the most just war of all—and out of nowhere appeared millions of traitors, from among the most simple, ordinary, lowly elements of the population.

How was this to be understood and explained?

Capitalist England fought at our side against Hitler; Marx had eloquently described the poverty and suffering of the working class in this same England. And why was it that *among them* in this war there was only one single traitor to be found, the businessman, "Lord Haw Haw?" And millions in our country?

Indeed, it is awful to be caught with a mouth wide open, but maybe the heart of the matter is the structure of the state?

The only army in the world which forbids its soldiers to surrender as prisoners is the Red Army. Only our soldiers, renounced by Motherland and degraded to nothing in the eyes of enemies and allies, had to push their way to the swine swill being given out in the backyards of the Third Reich. Only our

soldiers had the door shut tight to keep them from returning to their homes, though their young souls tried hard not to believe this.

Escape and return to the Motherland—past the guard ring around the camp, through half of Germany, then through Poland or the Balkans—this led straight to Smersh and prison. They asked: how was it that you escaped when others could not? This smells bad! Come on, you rat, what assignment did they give you? Such was the case with Kikhail Burnatsev, Pavel Bondarenko, and many, many others.

Now and then recruiters came—Russians, usually recent Communist political commissars. White Guards didn't accept this type of employment. These recruiters scheduled a meeting in the camp, condemned the Soviet regime, and appealed to prisoners to enlist in spy schools or in Vlasov units.

HALF-BAKED SPIES

And those of our lads who enlisted to become half-baked spies saw this as the least difficult means of getting out of P.O.W. camp. Almost to a man, they calculated that as soon as the Germans sent them across to the Soviet side, they would turn themselves in to the authorities, turn in their equipment and instructions, and join the benign command in laughing at the stupid Germans. They would then put on their Red Army uniforms and boldly return to fight in their units.

But spy mania was one of the fundamental traits of Stalin's insanity. All the Chinese who lived in the Soviet Far East got spy convictions—Section 58-6. They were taken to the northern camps where they perished. The same fate awaited the Chinese participants in the Soviet Civil War—if they had failed to clear out in good time. Several hundred thousand Koreans were exiled to Kazakhstan, all being likewise suspected spies. And the Latvian riflemen—the most reliable bayonets of the first years of the revolution—were accused of espionage when they were all to a man arrested in 1937.

The only ones who did not expect any mercy and did not expect an amnesty—were the Vlasov men.

Long before our unexpected encounter on prison board bunks I had known of them and had them in a state of perplexity about them.

First there had been leaflets, wet through and dried out many times and lost in the high grass of the frontline strip uncut now for the third year, near Orel.

In the many leaflets there was a photo of General Vlasov and his biography was set forth. Among the corps of newly made generals, many of whom were made generals, many of whom were utterly stupid and inexperienced, Vlasov was one of the most talented. He made his way out of the enormous Kiev encirclement and in December, 1941, near Moscow he commanded the 20th Army, which began the successful Soviet counteroffensive for defense of the capital.

He became Deputy Commander of the Volkhov Front (under Meretskov), and received command of the Second Shock Army, at the head of which he began on Jan. 7, 1942, an attempt to break through the Leningrad blockade.

NO REINFORCEMENTS OR SUPPLIES

By February, 1942, he was 75 kilometers deep in the German lines! And from this moment on, even for it, the reckless Stalinist Supreme Command could not find reinforcements in either men or ammunition.

From April on the entire swampy area through which the Second Army had advanced melted into mud, and there were no supply roads, and there was no help from the air. The army turned out to be deprived of food and at the same time Vlasov was refused permission to retreat.

And so it was that Vlasov's Second Shock Army perished.

Now that, of course, was treason to the Motherland! That, of course, was a cruel, egoistic betrayal! But it belonged to Stalin.

After his army had been wiped out Vlasov wandered about the woods and swamps and surrendered as a war prisoner on July 6 in the area of Siverskaya. He was taken to the German staff near Lötzen in East Prussia where several captive generals and a brigade political commissar, G. P. Zilenkov, formerly a successful party official, secretary of one of the Moscow district party committees were being held. They had already declared their disagreement with the policy of the Stalinist government. But they had no real leader among them. Vlasov became this figure.

In the general disaster (of 1945) Vlasov gathered up his two and a half divisions below Prague at the end of April. S.S. General Steiner was preparing to destroy the Czech capital, so as not to surrender it intact. Vlasov ordered his divisions to the aid of the Czech rebels. All of the hurt, bitterness and anger accumulated against the Germans in the breasts of Russians kept in slavery these cruel and vain three years was released in the attack on the Germans. They were shoved out of Prague from an unexpected direction.

Did all Czechs subsequently realize which Russians had saved their city? our own history is likewise distorted, claiming that Prague was saved by Soviet armies, though they could not have got there in time.

RETREAT TOWARD AMERICANS

The Vlasov army began to retreat toward Bavaria in the direction of the Americans. But the Americans greeted them with an armed wall and forced them to surrender into Soviet hands, as provided for by the Yalta Conference. That same May in Austria Churchill perpetuated "the same sort of act of a loyal ally." Out of our accustomed modesty we did not publicize it. He turned over to the Soviet command the Cossack corps consisting of 90,000 people.

In their own countries Roosevelt and Churchill are honored as examples of statesmanlike wisdom. To us, in Russian prison discussions, their systematic shortsightedness and stupidity stood out as astonishingly obvious. How could they, in their descent from 1941 to 1945, fail to secure any guarantees whatsoever of the independence of Eastern Europe? How could they, for the laughable toy of a four-zone Berlin, their own future achilles' heel, give away broad regions of Saxony and Thuringia? And what military or political sense was there in the surrender by them, to death at Stalin's hands, of several hundred of thousands of armed Soviet citizens determined not to surrender?

The term "Vlasov man" in our country has come to be equivalent to "sewage." No one dares to utter two or three sentences with the term "Vlasov man" as a subject.

But that is not the way history is written. Right now, a quarter of a century later, when the majority of them have perished in camps, and when those who have survived are living out their lives in the extreme north, I would like, by means of these pages, to issue a reminder that in all of world history this was a totally unheard-of phenomenon: that several hundred thousand young men aged from 20 to 30 took up arms against their own Fatherland in alliance with its most evil enemy.

It is a rare zek who has not been at three to five transit prisons and camps and many remember a dozen or so, and the sons of *Gulag* can count up to 50 of them without the least difficulty. However, they all get mixed up together in memory because they are so like one another.

Of course, one transit prison is not the equal of another. But which is better and which is worse is something that can't be settled in an argument.

Let us listen to such a discussion for a time:

"Yes, and even if the Ivanovo transit prison is not one of the more famous, my friends, just make inquiries of anyone imprisoned there in the winter of 1937–38. The prison was *unheated*—and on the upper bunks the prisoners lay there undressed. And they knocked out all the window panes so as not to suffocate. In cell 21 instead of the 20 men the cell was supposed to contain there were *323!* Beneath the board bunks was water, and there were boards laid in the water and people lay on these boards. It was right there the frost poured in from the broken windows.

"They distributed rations not to individuals but to units of 10. If any one of the 10 died the rest shoved his corpse beneath the bunks and kept it there, even when it had begun to smell. They got the corpse's ration.

"Irkutsk, too, was no special transist prison, but in 1938 the doctors did not even dare to look into the cells but would only walk down the corridor while the turnkey shouted through the door: 'Anyone unconscious, come out.'

"If you are talking about the Vladivostok transit prison then in February, 1937, there were no more than 40,000 there.

"People were stuck there for several months at a time. The bedbugs infested the board bunks like locusts. One half a mug of water a day: there wasn't any more; there was no one to haul it. There was one whole section of Koreans and all of them died from dysentery, every last one. From our own section every morning they took out 100 corpses.

"There were 1,500 ill there. And all the orderlies were blatari, thieves. They tried to pull out gold teeth from the corpses. And not only from corpses."

During years when prisoners' case files did not have on them an indication of their destination the transit prisons turned into slave markets. The most desired guests at the transit prisons were the *buyers*.

Conscientious merchants demanded that the *merchandise* be displayed for them to see alive and bare-skinned. And that was just what they used to say—without smiling—*merchandise*. "Well, what *merchandise* have you brought?" asked a buyer at the Butyrka station, observing and inspecting the female appurtenances of a 17-year-old, Ira Kalina.

Sukhanovka was the most terrible prison the M.G.B. had. They used it to terrify prisoners; and interrogators hissed out its name ominously. Those who had been there weren't subject to further interrogations: they were either insane and talking only disconnected nonsense, or else they were dead.

They stunned the newly arrived prisoner there with a standing punishment cell—so narrow that if the prisoner was no longer able to stand he had to hang there on his propped-up knees.

To be absolutely precise they were 156 cm. by 209 cm. How has that become known? This is a triumph of engineering calculation and of a strong heart, not broken by Sukhanovka. This was calculated by A.D. [Alexander Dolgun.] He did not permit them to drive him insane or to despair.

On the bottom of the prison bowl he read 10/22 and guessed "10" was the diameter of the bottom and "22" the diameter of the outside edge. From a towel he pulled a thread, made himself a tape measure and measured everything with it. Then he began to invent how to sleep *standing up*, propping himself

with his knees against the small chair so that the guard thought his eyes were open.

From Alexandrov, the former head of the Arts Section of V.O.K.S.—the All-Union Society for Cultural Relations with Foreign Countries—who has a broken spinal column that tilts to one side, and who cannot control his tear ducts so as to stop crying, one can learn how Abakumov himself could beat—in 1948.

Yes, yes, Minister of State Security Abakumov himself did not by any means shun menial labor. He was not against taking a rubber truncheon in his hands sometimes. And his deputy Ryumin was all the more willing. He did this at Sukhanovka in the "generals" interrogation office.

CARPET FOR PRISONERS

The office had paneling of imitation walnut, silk portieres and a great Persian rug on the floor. So as not to spoil this beauty, there was rolled out on top of the carpet for a prisoner being beaten a dirty runner all spattered with blood. When Ryumin was doing the beating he was assisted not by some ordinary guard but by a colonel.

"And so," said Ryumin politely, stroking his rubber truncheon, which was an inch and a half thick, "you have survived trial by sleeplessness with honor." (A.D. by cleverness had managed to last for a month without sleep by sleeping while standing up.) "So now we will try the club. Prisoners don't last more than two or three sessions of this. Let down your trousers and lie down on the runner."

The colonel sat down on the prisoner's back. A.D. was going to count the blows. He didn't know yet what a blow with a rubber truncheon is on the sciatic nerve. The effect is not in the place where the blow is delivered—it blows up inside the head. After the first blow the victim was insane from pain and broke his nails on the carpet. Ryumin beat away. (After the beating the prisoner could not walk and, of course, he was not carried. They just dragged him along the floor. The remnants of his buttocks soon swelled up to the point that he could not button his britches, and yet there were practically no scars. He was hit by a violent case of diarrhea, and, sitting there on the latrine barrel in solitary D, laughed. He went through a second and third session, and his skin burst, and Ryumin went wild, and started to beat him in the stomach and broke through the intestinal wall, in the form of an enormous hernia where his intestines protruded. And the prisoner was taken off to the Butyrka hospital with a case of peritonitis, and for the time being the attempts to compel him to commit a foul deed were broken off.)

[From the New York Times, Dec. 31, 1973]

"THE GULAG ARCHIPELAGO, 1918–1956"—SOLZHENITSYN ON HIS OWN IMPRISONMENT

(By Alexander I. Solzhenitsyn)

What would things have been like if every security operations man when he set out at night to make arrests was uncertain whether he would return alive and would have to say his goodbys to his own family?

Or if during mass arrests—as for example in Leningrad, when they arrested a quarter of the entire city—people had not just sat there growing pale at every banging of the downstairs door and at every step on the staircase but had boldly set up in their entrances ambushes consisting of several persons with axes, hammers and pokers or with whatever else was at hand?

The police organs would very quickly have suffered from a shortage of officers and transport, and notwithstanding all of Stalin's thirst, the cursed machine would have ground to a halt!

If . . . if . . .

We lacked enough love of freedom. And even more—a consciousness of the real situation. We spent ourselves in our unrestrained outburst in 1917, and then we made haste to be submissive. We submitted *with pleasure!*

I myself had the chance to *shout out* many times.

On the 11th day after my arrest three Smersh intelligence parasites, burdened down more by four suitcases full of war booty than by me (on me they had come to rely in the course of the long trip) brought me to the Byelorussian Station in Moscow.

PRISONER HELPS HIS GUARDS

Not one of three knew the city and it was up to me to pick the shortest route to the prison. I had to conduct them personally to the Lubyanka, where I, in fact, confused with the Ministry of Foreign Affairs building across the street from it.

I had been a day in counter-intelligence prison in army headquarters and three days in counter-intelligence prison at the front command where my cellmates had already educated me in the deceits practiced by interrogators, their threats and beatings; in the fact that once a person had been arrested he was never released; and in the inevitability of a "tenner," in other words a 10-year sentence.

So why did I keep my silence? Why did I not undertake to enlighten the deceived crowd during my last minute out in the open?

Every man always has at hand a dozen glib little reasons why he is right, why he does not sacrifice himself.

Some still have hopes of a favorable outcome of their case and are afraid to ruin their chances for it by an outcry.

As for me, I am silent for one more reason: because these Muscovites who have thronged the steps of the escalators are nonetheless too few for me, *too few!* Here my cry will be heard by 200 or twice 200, and what about the 200 million? In a vague and unclear way I have the vision that some day I will cry out to the 200 million.

I had, probably, the easiest kind of arrest one can imagine. In a pallid European February it took me from our narrow salient on the Baltic Sea where, depending on one's point of view, either we had surrounded the Germans or they had surrounded us—and it deprived me only of my familiar artillery battery and of the scenes of the last three months of the war.

The brigade commander called me to his headquarters, asked for my pistol, and I turned it over without suspecting any evil intentions. Suddenly from a tense, immobile suite of staff officers in the corner two counter-intelligence men stepped forward, crossed the room in several leaps, and with four hands simultaneously grabbed at the star on my cap, my shoulder boards, my officer's belt, my map case, and shouted theatrically:

"You are under arrest!"

Burning and prickling from head to toes, all I could find to exclaim was:

"Me? What for?"

Even though there is no answer to this question, surprisingly I received one! This is worth recalling, because it is so unlike our general custom. Hardly had the Smersh men completed their process of "disemboweling" me and taken from me, along with my map case, my written political thoughts, and—driven by the rattling of the window panes under German shellfire—begun to push me as quickly as possible to the exit, than I heard myself firmly addressed—yes! Across this mute gap created by the falling word "arrested," across this boundary line of plague, came the unthinkable, magic words of the brigade commander:

"Solzhenitsyn. Come back here."

With a sharp turn I broke from the hands of the Smersh men and stepped back to the brigade commander. I knew him very well.

"You have . . ." he asked weightily, "a friend on the First Ukrainian Front?"

"It's forbidden! You have no right!" the captain and the major of counter-intelligence shouted. But I had already understood: I knew I had been arrested for my correspondence with my school friend, and understood from what direction to expect danger.

Zakhar Georgiyevich Travkin could have stopped right there! But no! Continuing his attempt to wipe his slate clean and to stand erect in the face of his own conscience he rose from behind his desk—though he had never before stood in front of me—and he reached across the boundary line and gave me his hand—though he would never have reached out his hand to me had I remained a free man. He said fearlessly and precisely:

"I wish you happiness, captain!"

Not only was I no longer a captain, but I was an exposed enemy of the people (for among us every person from the moment of arrest is totally exposed).

So he had wished happiness—to an enemy?

GIRLS OF VARIOUS NATIONS

That night the Smersh officers gave up the last hope of being able to make out where we were on the map—in fact, they never had been able to read maps anyway. So they turned it over politely and asked me to tell the driver how to proceed to counter-intelligence at army headquarters. I, therefore, led them and myself to that prison, and in gratitude they immediately put me not in just a simple cell but in a punishment cell.

It was the length of one human body and there was width enough for three to lie packed in tightly. A fourth person was too much. As it happened I was the fourth, pushed in after midnight. We lay on the crushed straw floor. They slept and I burned.

By morning they awoke, yawned, grunted, pulled up their legs, moved off into various corners and our acquaintance began.

"What did they bring you here for?"

"I haven't the least idea. Do the snakes tell you?"

However, my cellmate—tankmen in soft helmets—didn't hide anything. Theirs were three honest, straightforward soldiers' hearts. All three had been officers.

Their shoulder boards had been viciously torn off, and in some places the cotton stuck out.

Their tank unit had unfortunately arrived for repairs in the village where Smersh counter-intelligence headquarters of the 48th Army was located. Still sweating from battle they had gotten drunk. On the outskirts of the village they broke into a bath where, as they had noticed, two husky wenches had gone to bathe. The girls, half dressed, managed to get away. But it turned out that one was the property of the Chief of Army Counter-Intelligence, no less.

Yes! For three weeks the war had been going on within Germany, and all of us knew very well: if the girls were German they could be raped and then shot and this was almost a battle distinction; if they were Polish girls or our own Russian girls they could at any rate have been chased naked around the garden and slapped on the behind—an amusement, no more. But because this one was the "military campaign wife" of the Chief of Counter-Intelligence, some deep-in-the-rear sergeant viciously tore off from three front-line officers the shoulder boards awarded them by the front command.

Now, new impressions burned into our minds.

"Out for toilet time! Hands behind your

backs!" shouted a master sergeant "hardhead."

Around the peasant courtyard had been strung a circle of machine gunners guarding the path, which went around the barn.

Behind the barn was a small square area in which the snow had been trampled down and not yet melted. It was soiled with human feces, so thickly and chaotically spread that it was difficult to find a place to put down one's two legs and squat. However, we scattered ourselves and did squat down. Two machine gunners grimly set up their machine pistols opposite our lowly positions and the master sergeant before a minute had passed shouted brusquely:

"Well, speed it up! Here with us they do it quickly!"

SMERSH COUNTER-INTELLIGENCE

Not far from me squatted one of the tankmen, a native of Rostov, a tall grim senior lieutenant. His face was blackened by a thin film of metallic dust or smoke, but a big red scar stretching across his cheek stood out.

"What do you mean *here with us?*" he asked.

"In Smersh counter-intelligence!" proudly shot back the master sergeant. (The counter-intelligence men used to love that tastelessly-thrown together word, Smersh, manufactured from the initial syllables of "death to spies." They felt it served to frighten.

"And *with us* we do it slowly," thoughtfully replied the senior lieutenant. His helmet was pulled back, uncovering the still untrimmed hair on his head. His oaken battle-hardened rear end was lifted toward the pleasant coolish breeze.

"What do you mean—*with us?*" the master sergeant barked at him more loudly than he needed to.

"In the Red Army," the senior lieutenant replied quietly from his heels, measuring with his look the "hardhead" hefty master sergeant.

Such were my first gulps of prison air.

Looking back on my interrogation from my long subsequent imprisonment I had no reason to be proud of it. I might, of course, have borne myself more firmly; and in all probability I could have maneuvered more skillfully. The only reason these recollections do not torment me with remorse is that, thanks be to God, I avoided getting anyone else arrested. But I came close to it.

Although we were front-line officers Nikolai V. and I, who were involved in the same case, got ourselves into prison with a childish piece of stupidity. He and I corresponded during the war, between two sectors of the front; and though we knew well that there was wartime censorship of letters nontheless we indulged in nearly outright expression of our political outrage and in derogatory remarks directed at the Wisest of the Wise whom we labelled with the transparently obvious coded nickname, taken from underworld jargon, of the *Big Shot*—in place of Father.

The contents of our letters was sufficient to give quite adequate material, in accordance with the concepts of those times, for sentencing us both. Therefore my interrogator did not have to invent something for me. And he merely tried to cast his noose on all of those to whom I have ever written or who have ever written to me.

My interrogator employed no other means with me than sleeplessness, falsehoods and threats—completely legal methods.

Before becoming an officer I had spent half a year as an oppressed soldier. And it might have seemed that it would have penetrated through my thick hide what it meant to be always ready to obey people who perhaps were not worthy of you, and to do it with a hungry stomach to boot. And so I ought to have mastered the bitterness of service as a soldier of the rank and file and remember how my hide froze on me and how it was flayed from my body. And did I? Not at all. They pinned for consolation two little stars on my shoulder boards, and then a third, and then a fourth. And I forgot every bit of all that!

But had I at least kept my student's love for freedom? But, you see, we had never ever had any such thing. We had instead a love for military organization, a love for marches.

Then the officers' insignia were fastened on our tabs.

I addressed fathers and grandfathers with the intimate personal pronoun—while they addressed me, of course, with the formal pronoun. I sent them out under shellfire to repair several wires just so my superiors should not reproach me. I ate my officers' butter with pastry, without giving a thought as to why I had a right to it, and why the rank and file soldiers did not.

I ascribed to myself unselfish dedication. And yet meanwhile I was a fully prepared executioner. And if I had gotten into an N.K.V.D. school under Yezhov maybe I would have matured just in time for Beria.

So if any reader expects this book to be a political exposé he better slam its covers shut right now.

During prison walks I tried to get into the same pair with Suzi. We talked together in the cell, but we liked to try to speak about the main things here. We did not come together quickly. It took some time. But he had already managed to tell me much. From my childhood on I knew out of somewhere that my life purpose was the history of the Russian Revolution and that nothing else concerned me. For comprehension of the revolution I had long since required nothing except Marxism. Everything else that came up I cut off from myself and turned away from. But here fate brought me together with Suzi. He had had a completely different field of inspiration. Now he was telling me, with fascination, about everything that was his. About Estonia and democracy. Even though I had never expected to become interested previously in Estonia, or bourgeois democracy, nonetheless I kept listening and listening to his loving stories of 20 free years of that unsensational work-loving small people consisting of big men with their slow, fundamental ways. I listened to the principles of the Estonian Constitution which had been taken from the best of European experience, and how their one-house parliament consisting of 100 members had worked. And it was not clear why, but I began to like it all and all of it began to be stored away in my experience.

SONS TAKEN BY ARMIES

We struck at Estonia in 1940, and again in 1941, and again in 1944. Some of their sons were taken by the Russian Army, and others by the German Army, and still others ran off into the woods. And elderly Tallinn intellectuals discussed how they might manage to break out of that vicious circle, break away somehow and live for themselves by themselves.

Neither Churchill nor Roosevelt cared in the least about them; but "Uncle Joe" had his plans for them all right. As soon as the Soviet armies entered Tallinn, all of these dreamers were seized during the very first nights in their Tallinn apartments. And 15 of them were imprisoned in the Moscow Lubyanka in various cells, one in each, and were being charged under Section 58–2 with a criminal desire for national self-determination.

It was all like a dream. In February, 1963, politely accompanied by a colonel who was also a Communist party organizer, I entered the room with the round colonnade in which, they say, the plenary sessions of the Supreme Court of the U.S.S.R. meet, with an enormous horseshoe-like table, and inside it another round table and seven antique chairs. Seventy officials of the Military Collegium heard me out. I said to them: "What a remarkable day this is! Although I was sentenced first to camp, then to eternal exile, I never saw face to face a single judge. And now I see all of you assembled here together" (And they, for the first time, saw a living zek with eyes which they had rubbed open.)

But it turned out that it had not been they! Yes. Now they said that it was not they. They assured me that *those* were no longer here. Some had retired on honorable pensions. A few had been removed. (Ulrikh, the most outstanding executioner of all, had been removed, it turned out, back in Stalin's time, in 1950 for, believe it or not, leniency.)

Some of them—there were few of these—had even been tried under Khrushchev, and *these* had threatened from the bench: "Today you are trying us and tomorrow we will try you, watch out!" But like all the beginnings of Khrushchev this movement too, which had been at first very energetic, was soon forgotten by him and dropped and never got so far as to become an irreversible change, which means that things were left where they had been before.

They vied with each other in telling me things and I kept looking about myself and being astonished. They were people! Really people! They were smiling! They were explaining how they wished only good.

Well, and if things turn about in such a way that once again it is up to them to try me? Right there in that hall—and they were showing me the main hall.

Well, so they will try me.

[From the New York Times, Feb. 13, 1974]

EXCERPT FROM "GULAG ARCHIPELAGO" ON LAW IN SOVIET UNION TODAY

(Moscow, February 12.—Following is an excerpt from the seventh section of "The Gulag Archipelago, 1918–56," made available by the author, Aleksandr I. Solzhenitsyn, before his arrest today. The translation is by The New York Times.)

Author's preface: Persistent summonses to the prosecutor's office have forced me to express my thoughts on the present state of legality (lawlessness) in our country. This impels me to give a more detailed account of my views, so for this reason I am publishing ahead of time an excerpt from the seventh part of "Gulag Archipelago." As indicated, my book is devoted to the period 1918–56. However, in the seventh part ("No Stalin") there are pages devoted to the present situation. This excerpt is taken from these pages.

Our Law is powerful, slippery, and unlike anything else on earth known as "the law."

The foolish Romans invented the idea that "the law has no retroactive force." But in our country it does! A reactionary old proverb murmurs that "the law cannot be written *ex post facto*." But in our country it can!

If a fashionable new Decree has been issued, and the Law is itching to apply it to those who were arrested *earlier* well why not, it's possible! This was what happened with currency speculators and bribes-takers; lists were sent to Moscow from various places, for example Kiev, marking the names of those to whom the decree should be applied *retroactively* (either by *stretching out* their sentences or by finishing them off with *nine grams* [a bullet, in prison slang]. And the measures were applied.

Yet with all that, our Law completely fails to remember the sin of Bearing False Witness. It generally does not even consider

it a crime! Legion are the false witnesses who flourish among us, advancing toward a respectable old age, and basking in the golden sunset of their days. Our country is the only one in all history and in the whole world that pampers perjurers!

And still our Law fails to punish the Killer-Judges and the Killer-Prosecutors. They all serve honorably, and for long years, and nobly pass into old age.

And still you cannot deny that our Law shakes and shudders, which is characteristic for any trembling creative process. This is how the Law lurches from side to side; one year, criminality falls sharply!—arrest fewer, put fewer on trial, and let the convicted out on bail! And then it lurches the other way: there is no end to the scoundrels! No more bail! Make the prisons tougher, the sentences longer, punish the bastards!

But despite all the buffetings of the storm, the ship of the Law majestically and calmly sails on. The highest judges and the highest prosecutors are experienced men, and such squalls do not surprise them. They conduct their Plenums, they hand down their rulings—and each new tack is explained as being long-desired, as the outgrowth of our entire historical development, and as fortold by the One and Only True Teaching.

The ship of our Law is ready for all such lurchings. And if tomorrow orders are given once more to send millions to prison for their way of thinking, to exile whole peoples (the same ones as before or others) or rebellious city populations, and once more to hang four-digit prison numbers on people—the powerful hull will scarcely tremble, nor will the prow waver.

And all that remains is what Derzhavin wrote [Gavrila R. Derzhavin, Russian poet who lived from 1743–1816], that only those who have experienced it themselves can know in their hearts that:

An unjust court is more evil than highway robbery.

Where else is it possible, under what other earthly system of law apart from ours, is it possible to harness people with 25-year terms, running into the seventies! Then suddenly a new criminal code appears (1961) with a maximum of 15 years.

Even a first-year law student would understand this to mean that those 25-year terms are canceled. But in our country, they are not canceled! You can cry yourself hoarse, you can bang your head against the wall, but still they are not canceled.

This is the lot of people who were not touched by the epidemic of Khrushchevian liberations, our forsaken comrades in prison gangs, who shared cells with us and whom we met in transit camps. In our own renewed existence, we have long ago forgotten them, and yet there they are, still lost, still sullenly and vacantly tramping around those same two-bit plots of much-trodden earth, still behind the barbed wire and the watch towers.

LEADERS COME AND GO

The portraits [of leaders] change in the newspapers, the speeches from rostrums change, they fight against the *cult* [of Stalin], then they call off the fight. But the long-termers, Stalin's godsons, are still inside.

The chilling prison biographies of certain of them have been related by Karavansky.

[Yuri Karavansky, a Ukrainian sentenced to 25 years under Stalin, reprieved during the Khrushchev era after 16 years in prison, who married, entered a university and was then re-arrested to serve the nine remaining years of his original term.]

Oh, freedom-loving "leftist" thinkers of the West! Oh, leftist Laborites! Oh, progressive American, German and French students! For you, all this counts for little. For you, my entire book amounts to nothing. You will only understand it all when they bellow at you—"hands behind your back"—as you *yourselves* trudge off to our archipelago.

In fact, the number of *political* prisoners is no longer comparable with Stalinist times. They are reckoned not in millions and not in hundreds of thousands.

Does this mean the Law has turned over a new leaf? or has the direction of the ship changed?

EASY TO MAKE ARRESTS

Formerly, it was easy to take away anyone under 58–10 [the article in the former criminal code covering anti-Soviet activity and propaganda], even a tailor who [accidentally] stuck a needle into a newspaper portrait [of Stalin].

Nowadays, anyone objectionable [to the authorities] can be taken away under the law covering ordinary crimes. Much has been published and printed in the way of Fundamentals, Decrees, Laws, both contradictory and coordinated, but it is not according to them that the country lives, it is not according to them that arrests are made, it is not according to them that trials are held, and it is not according to them that expert witnesses are called.

Only in those cases where the subject of investigation or court examination does not infringe on the interests of the state, the reigning ideology, the personal interests or tranquillity of any person in a high place—only in such cases may court officials exercise the privilege of not calling anyone, of not receiving instructions from anyone, and with clear conscience judge the case on its own merits.

All other cases—the overwhelming majority of them, both criminal and civil, and here there is no difference—cannot help but touch on important interests, such as those of the chairman of a collective farm or village council, a shop superintendent, a factory director, the manager of an apartment complex, a precinct captain, an inspector or a chief of police, a chief doctor or senior economist, the heads of departments, Government agencies, special sections [for security] or personnel departments, secretaries heading district and regional party organizations, and so on up the ladder!

DISCREET PHONE CALLS

And in all these cases, discreet telephone calls are exchanged between on quiet office and another, unhurried, low-keyed, friendly voices *advise*, correct little errors, give general directions on how to handle the legal case or some ordinary individual caught up in a web of incomprehensible intrigues of higher-ups, unknown to him.

And the little trusting reader of newspapers comes into the courtroom with righteousness beating in his breast, with reasonable arguments prepared, and tremblingly lays them out before the dozing masks of his judges, not suspecting that his sentence has already been decided—and that there are *NO* means of appeal, *NO* time limits or methods to correct the most evil, self-serving decision, though the heart burns with the injustice of it all.

There is simply a Wall. And its bricks are laid in a mortar of lies.

We have called this chapter "The Law Today." But really it should be called: "There Is No Law."

The same perfidious secrecy, the same fog of unrighteousness hangs in the air around us, hangs over our cities more densely than the city smoke itself.

A powerful State towers over its second half-century, embraced in hoops of steel. The hoops are there indeed but not the law.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, February 28, 1974, he presented to the President of the United States the enrolled bill (S. 2589) to assure, through energy conservation, end-use rationing of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes.

QUORUM CALL

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESCISSION OF ORDER TO CONSIDER PAY RAISE BILL TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the agreement entered into by the Senate, which, unfortunately, I did not discuss with anyone else, relative to the pay bill being made the pending business tomorrow after morning business, be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. May I express the hope that it will be the pending business at the conclusion of morning business tomorrow; that there will be no stalling, no delaying tactics. If there is, it is my intention to lay before the Senate a cloture motion tomorrow.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISPOSITION OF ABANDONED MONEY ORDERS AND TRAVELER'S CHECKS

The Senate continued with the consideration of the bill (S. 2705) to provide for the disposition of abandoned money orders and traveler's checks.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on passage.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I shall be ready to vote in a little while, but not at this minute, because I wish to say a few words about the matter.

I have consulted with my colleague from New York (Mr. BUCKLEY) and also with the attorney general of the State of New York, who shares my very strong views as to the really unfair position in which we have been put. He wishes me to express from him, as an attorney general, his deep feeling of protest at this retroactive provisions which is unjustifiable—at least to him—and I really feel is unjustifiable on any conceivable ground of orderliness of Government, as to the way in which the Government agencies, including the Supreme Court of the United States, operate.

This is a very bad precedent. I have said myself on many occasions that we are not bound by anything we do as a precedent, unless we want to make it a precedent that will be invoked. We do not want to follow such a precedent. I hope we never have to. It is not one of the most glorious chapters in the history of the Senate of the United States.

I believe I have made that point crystal clear. I question whether any other Senator would make the matter more clear; as, for example, an amendment I would have proposed to change the date from January 1, 1974, back to some other date. But that could not be done unless it were the product of an agreement between the parties, by way of settlement, a settlement which could not be obtained. I thought I had come into agreement with the chairman of the committee, but a settlement not being desired, it seems to me that it would only compromise the principle as laid down by the Court as a matter of juridical principle. I emphasize: not a compromise, but on a straight question of juridical principle, requiring no retroactive provision.

My amendment having failed on a motion to table by a vote of 74 to 10, a margin which I think takes us beyond the feeling of some Senators that the vote may have been the other way had they had an opportunity to test out the situation, it seems to me that one other way that it can be tested is by a motion I am about to make. Then Senators can decide whether it is really unfair without jeopardizing the fundamental basis of the legislation prospectively.

So, Mr. President, I move to recommit the bill to the Committee on Banking, Housing and Urban Affairs. On that question, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask for the yeas and nays on the motion of the Senator from New York.

The yeas and nays were ordered.

Mr. JAVITS. Mr. President, I wish to say only one word and then I will be through. If Senators will wait a moment, we will be able to vote.

I just heard a statement that makes me worried. I hope it is very clear that the only thing I am arguing for is the right and the power of the State. The American Express Co. or any other issuer of traveler's checks or money orders does not get anything from this bill in either case. The only matter concerned is what State can escheat the funds, the State of the domicile corporation or the State where the money order or traveler's check is issued.

My basic argument is against the 10-year retroactivity. There is no question about any money going to any corporation, the American Express Corp. or any other corporation.

It is only an issue as to what State gets it.

I wish to make it very clear, since I thought there might have been some question about it.

Mr. President, I am ready to vote on the motion.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New York to recommit. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG) and the Senator from Georgia (Mr. TALMADGE) are absent on official business.

I also announce that the Senator from Hawaii (Mr. INOUYE) is absent because of a death in the family.

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. PEARSON) is absent on official business.

I further announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "nay."

The result was announced—yeas 8, nays 76, as follows:

[No. 46 Leg.]

YEAS—8

Buckley	Fannin	McClure
Case	Hathaway	Williams
Dole	Javits	

NAYS—76

Abourezk	Bentsen	Chiles
Aiken	Bible	Church
Allen	Biden	Clark
Baker	Brock	Cook
Bartlett	Burdick	Cotton
Beall	Byrd, Harry F., Jr.	Cranston
Bellmon	Byrd, Robert C.	Curtis
Bennett	Dominick	Domenici
Eagleton	Magnuson	Randolph
Ervin	Mansfield	Ribicoff
Fong	Mathias	Roth
Griffin	McClellan	Schweiker
Gurney	McGee	Scott, Hugh
Hansen	McGovern	Scott, William L.
Hart	McIntyre	Sparkman
Hartke	Metcalf	Stafford
Haskell	Metzenbaum	Stennis
Hatfield	Mondale	Stevens
Helms	Montoya	Stevenson
Hruska	Moss	Symington
Hughes	Muskie	Taft
Humphrey	Nelson	Thurmond
Jackson	Nunn	Tower
Johnston	Pastore	Tunney
Kennedy	Pell	Weicker
	Proxmire	

NOT VOTING—16

Bayh	Gravel	Pearson
Brooke	Hollings	Percy
Cannon	Huddleston	Talmadge
Eastland	Inouye	Young
Fulbright	Long	
Goldwater	Packwood	

So the motion to recommit was rejected.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the yeas and nays on passage be vacated.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? The Chair hears none, and it is so ordered.

Mr. JAVITS. Mr. President, I assured the leadership that we had no desire to drag our feet on this matter. I consider the vote that was just cast as deciding the question, and am ready to vote on the bill.

Mr. TOWER. Third reading, Mr. President.

The PRESIDING OFFICER. The bill is open to further amend. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having read the third time, the question is, Shall it pass (putting the question)?

The bill (S. 2705) was passed as follows:

S. 2705

An act to provide for the disposition of abandoned money orders and traveler's checks

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That

FINDINGS

SECTION 1. The Congress finds and declares that—

(1) the books and records of banking and financial organizations and business associations engaged in issuing and selling money orders and traveler's checks do not, as a matter of business practice, show the last known addresses of purchasers of such instruments;

(2) a substantial majority of such purchasers reside in the States where such instruments are purchased;

(3) the States wherein the purchasers of money orders and traveler's checks reside should, as a matter of equity among the several States, be entitled to the proceeds of such instruments in the event of abandonment;

(4) it is a burden on interstate commerce that the proceeds of such instruments are not being distributed to the States entitled thereto; and

(5) the cost of maintaining and retrieving addresses of purchasers of money orders and

traveler's checks is an additional burden on interstate commerce since it has been determined that most purchasers reside in the State of purchase of such instruments.

DEFINITIONS

SEC. 2. As used in this Act—

(1) "banking organization" means any bank, trust company, savings bank, safe deposit company, or a private banker engaged in business in the United States;

(2) "business association" means any corporation (other than a public corporation), joint stock company, business trust, partnership, or any association for business purposes of two or more individuals; and

(3) "financial organization" means any savings and loan association, building and loan association, credit union, or investment company engaged in business in the United States.

STATE ENTITLED TO ESCHEAT OR TAKE CUSTODY

SEC. 3. Where any sum is payable on a money order, traveler's check, or other similar written instrument (other than a third party bank check) on which a banking or financial organization or a business association is directly liable—

(1) if the books and records of such banking or financial organization or business association show the State in which such money order, traveler's check, or similar written instrument was purchased, that State shall be entitled exclusively to escheat or take custody of the sum payable on such instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum;

(2) if the books and records of such banking or financial organization or business association do not show the State in which such money order, traveler's check, or similar written instrument was purchased, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, until another State shall demonstrate by written evidence that it is the State of purchase; or

(3) if the books and records of such banking or financial organization or business association show the State in which such money order, traveler's check, or similar written instrument was purchased and the laws of the State of purchase do not provide for the escheat or custodial taking of the sum payable on such instrument, the State in which the banking or financial organization or business association has its principal place of business shall be entitled to escheat or take custody of the sum payable on such money order, traveler's check, or similar written instrument, to the extent of that State's power under its own laws to escheat or take custody of such sum, subject to the right of the State of purchase to recover such sum from the State of principal place of business if and when the law of the State of purchase makes provision for escheat or custodial taking of such sum.

APPLICABILITY

SEC. 4. This Act shall be applicable to sums payable on money orders, traveler's checks, and similar written instruments deemed abandoned on or after February 1, 1965, except to the extent that such sums have been paid over to a State prior to January 1, 1974.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table as agreed to.

Mr. JAVITS. Mr. President, I ask unanimous consent that the RECORD show that I voted "nay" on passage.

The PRESIDING OFFICER. The RECORD will so show. What is the will of the Senate?

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DOMENICI). Without objection, it is so ordered.

FAIR LABOR STANDARDS AMENDMENTS OF 1974

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 666, S. 2747, so that it may become the pending business.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

S. 2747 to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to expand the coverage of the act, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare, with amendments, on page 1, line 5, after the word "of", strike out "1973" and insert "1974"; in line 6, after the word "this", strike out "title" and insert "Act"; on page 2, line 9, after the word "of", strike out "1973" and insert "1974"; in line 16, after the word "of", strike out "1973" and insert "1974"; in line 21, after the word "of", strike out "1973" and insert "1974"; on page 3, line 8, after the word "of", strike out "1973" and insert "1974"; on page 4, line 13, after the word "of", strike out "1973" and insert "1974"; in line 19, after the word "of", strike out "1973" and insert "1974"; in line 24, after the word "of", strike out "1973" and insert "1974"; on page 5, line 6, after the word "an", strike out "hour", and insert "hour."; at the beginning of line 7, strike out "except that, in the case of an employee whose wage order rate was increased (pursuant to the recommendations of a special industry committee convened under section 8) during the period beginning on July 26, 1973, and ending before the effective date of the Fair Labor Standards Amendments of 1973, the wage order rate applicable to such employee shall be increased only if the amount of the increase during such period was less than the otherwise applicable increase prescribed by clause (i) or (ii) of this subparagraph and only to the extent of the difference between the increase during such period and such otherwise applicable increase."; on page 6, line 20, after the word "of", strike out "1973" and insert "1974"; in line 22, after the word "of", strike out "1973"" and insert "1974"; on page 7, line 9, after the word "of", strike out "1973" and insert "1974"; on page 14, line 18, after the word "of", strike out "1973" and insert "1974"; on page 15, at the beginning of line 25, strike out "1973" and insert "1974"; on page 16, line 18, after the word "constitute", strike " "wages" " and insert " 'wages' "; on page 21, line 2, after the word "of", strike out "1973" and insert "1974"; in line 16, after the word "of", strike out "1973" and insert "1974"; on page 23, line 4, after the word "of", strike out "1973" and insert "1974"; on page 25, line 4, after the word "of", strike out "1973" and insert "1974"; in line 11, after the word "of", where it appears the second time, strike out "1973" and insert "1974"; on page 27, line 9, after "(a)", strike out "Effective January 1, 1974, sections" and insert "Sections"; in line 15, after "(b)", strike out "Effective January 1, 1974, section" and insert "Section"; on page 28, line 8, after "(a)", strike out "Effective January 1, 1974, section" and insert "Section"; in line 13, after "(1)", strike out "Effective January 1, 1974, section" and insert "Section"; on page 30, line 11, after "(1)", strike out "Effective January 1, 1974, section" and insert "Section"; on page 33, line 15, after the word "of", strike out "1973" and insert "1974"; on page 37, line 22, after the word "of", strike out "1973" and insert "1974"; on page 41, line 24, after the word "may", strike out "be" and insert "by"; on page 42, line 18, after "(b)", strike out "Effective January 1, 1974, section" and insert "Section"; on page 43, at the beginning of line 17, strike out "(c)" and insert "(e)"; and on page 44, line 8, after "(a)", strike out "(4)" and insert "(4),"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES TO ACT

SECTION 1. (a) This Act may be cited as the "Fair Labor Standards Amendments of 1974".

(b) Unless otherwise specified, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the section or other provision amended or repealed is a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201–219).

INCREASE IN MINIMUM WAGE RATE FOR EMPLOYEES COVERED BEFORE 1966

SEC. 2. Section 6(a)(1) is amended to read as follows:

"(1) not less than $2 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1974, and not less than $2.20 an hour thereafter, except as otherwise provided in this section;".

INCREASE IN MINIMUM WAGE RATE FOR NONAGRICULTURAL EMPLOYEES COVERED IN 1966 AND 1973

SEC. 3. Section 6(b) is amended (1) by inserting ", title IX of the Education Amendments of 1972, or the Fair Labor Standards Amendments of 1974" after "1966", and (2) by striking out paragraphs (1) through (5) and inserting in lieu thereof the following:

"(1) not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1974,

"(2) not less than $2 an hour during the

second year from the effective date of such amendments,

"(3) not less than $2.20 an hour thereafter.".

INCREASE IN MINIMUM WAGE RATE FOR AGRICULTURAL EMPLOYEES

SEC. 4. Section 6(a)(5) is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than—

"(A) $1.60 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1974.

"(B) $1.80 an hour during the second year from the effective date of such amendments,

"(C) $2 an hour during the third year from the effective date of such amendments,

"(D) $2.20 an hour thereafter.".

INCREASE IN MINIMUM WAGE RATES FOR EMPLOYEES IN PUERTO RICO AND THE VIRGIN ISLANDS

SEC. 5. (a) Section 5 is amended by adding at the end thereof the following new subsection:

"(e) The provisions of this section, section 6(c), and section 8 shall not apply with respect to the minimum wage rate of any employee employed in Puerto Rico or the Virgin Islands (1) by the United States or by the government of the Virgin Islands, (2) by an establishment which is a hotel, motel, or restaurant, or (3) by any other retail or service establishment which employs such employee primarily in connection with the preparation or offering of food or beverages for human consumption, either on the premises, or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs. The minimum wage rate of such an employee shall be determined under this Act in the same manner as the minimum wage rate for employees employed in a State of the United States is determined under this Act. As used in the preceding sentence, the term 'State' does not include a territory or possession of the United States.".

(b) Effective on the date of the enactment of the Fair Labor Standards Amendments of 1974, subsection (c) of section 6 is amended by striking out paragraphs (2), (3), and (4) and inserting in lieu thereof the following:

(2) Except as provided in paragraphs (4) and (5), in the case of any employee who is covered by such a wage order on the date of enactment of the Fair Labor Standards Amendments of 1974 and to whom the rate or rates prescribed by subsection (a) or (b) would otherwise apply, the wage rate applicable to such employee shall be increased as follows:

"(A) Effective on the effective date of the Fair Labor Standards Amendments of 1974, the wage order rate applicable to such employee on the day before such date shall—

"(i) if such rate is under $1.40 an hour, be increased by $0.12 an hour, and

"(ii) if such rate is $1.40 or more an hour, be increased by $0.15 an hour.

"(B) Effective on the first day of the second and each subsequent year after such date, the highest wage order rate applicable to such employees on the date before such first day shall—

"(i) if such rate is under $1.40 an hour, be increased by $0.12 an hour, and

"(ii) if such rate is $1.40 or more an hour, be increased by $0.15 an hour.

In the case of an employee employed in agriculture who is covered by a wage order issued by the Secretary pursuant to the recommendations of a special industry committee appointed pursuant to section 5, to whom the rate or rates prescribed by subsection (a)(5) would otherwise apply, and whose hourly wage is increased above the wage rate prescribed by such wage order or by a subsidy (or income supplement) paid, in whole or in part, by the government of Puerto Rico, the increases prescribed by this paragraph shall be applied to the sum of the wage rate in effect under such wage order and the amount by which the employee's hourly wage rate is increased by the subsidy (or income supplement) above the wage rate in effect under such wage order.

"(3) In the case of any employee employed in Puerto Rico or the Virgin Islands to whom this section is made applicable by the amendments made to this Act by the Fair Labor Standards Amendments of 1974, the Secretary shall, as soon as practicable after the date of enactment of the Fair Labor Standards Amendments of 1974, appoint a special industry committee in accordance with section 5 to recommend the highest minimum wage rate or rates, which shall be not less than 60 per centum of the otherwise applicable minimum wage rate in effect under subsection (b) or $1.00 and hour, whichever is greater, to be applicable to such employee in lieu of the rate or rates prescribed by subsection (b). The rate recommended by the special industry committee shall (A) be effective with respect to such employee upon the effective date of the wage order issued pursuant to such recommendation, but not before sixty days after the effective date of the Fair Labor Standards Amendments of 1974, and (B) except in the case of employees of the government of Puerto Rico or any political subdivision thereof, be increased in accordance with, paragraph (2)(B).

"(4)(A) Notwithstanding paragraph (2)(A) or (3), the wage rate of any employee in Puerto Rico or the Virgin Islands which is subject to paragraph (2)(A) or (3) of this subsection, shall, on the effective date of the wage increase under paragraph (2)(A) or of the wage rate recommended under paragraph (3), as the case may be, be not less than 60 per centum of the otherwise applicable rate under subsection (a) or (b) or $1.00, whichever is higher.

"(B) Notwithstanding paragraph (2)(B), the wage rate of any employee in Puerto Rico or the Virgin Islands which is subject to paragraph (2)(B), shall, on and after the effective date of the first wage increase under paragraph (2)(B), be not less than 60 per centum of the otherwise applicable rate under subsection (a) or (b) or $1.00, whichever is higher.

"(5) If the wage rate of an employee is to be increased under this subsection to a wage rate which equals or is greater than the wage rate under subsection (a) or (b) which, but for paragraph (1) of this subsection, would be applicable to such employee, this subsection shall be inapplicable to such employee and the applicable rate under such subsection shall apply to such employee.

"(6) Each minimum wage rate prescribed by or under paragraph (2) or (3) shall be in effect unless such minimum wage rate has been superseded by a wage order (issued by the Secretary pursuant to the recommendation of a special industry committee convened under section 8) fixing a higher minimum wage rate."

(c)(1) The last sentence of section 8(b) is amended by striking out the period at the end thereof and inserting in lieu thereof a semicolon and the following: "except that the committee shall recommend to the Secretary the minimum wage rate prescribed in section 6(a) or 6(b), which would be applicable but for section 6(c), unless there is substantial documentary evidence, including pertinent unabridged profit and loss statements and balance sheets for a representative period of years or in the case of employees of public agencies other appropriate information, in the record which establishes that the industry, or a predominant portion thereof, is unable to pay that wage."

(2) The third sentence of section 10(a) is amended by inserting after "modify" the following: "(including provision for the payment of an appropriate minimum wage rate)".

(d) Section 8 is amended (1) by striking out "the minimum wage prescribed in paragraph (1) of section 6(a) in each such industry" in the first sentence of subsection (a) and inserting in lieu thereof "the minimum wage rate which would apply in each such industry under paragraph (1) or (5) of section 6(a) but for section 6(c)", (2) by striking out "the minimum wage rate prescribed in paragraph (1) of section 6(a)" in the last sentence of subsection (a) and inserting in lieu thereof "the otherwise applicable minimum wage rate in effect under paragraph (1) or (5) of section 6(a)", and (3) by striking out "prescribed in paragraph (1) of section 6(a)" in subsection (c) and inserting in lieu thereof "in effect under paragraph (1) or (5) of section 6(a) (as the case may be)".

FEDERAL AND STATE EMPLOYEES

SEC. 6. (a) (1) Section 3(d) is amended to read as follows:

"(d) 'Employer' includes any person acting directly or indirectly in the interest of an employer in relation to an employee and includes a public agency, but does not include any labor organization (other than when acting as an employer) or anyone acting in the capacity of officer or agent of such labor organization."

(2) Section 3(e) is amended to read as follows:

"(e)(1) Except as provided in paragraphs (2) and (3), the term 'employee' means any individual employed by an employer.

"(2) In the case of an individual employed by a public agency, such term means—

"(A) any individual employed by the Government of the United States—

"(i) as a civilian in the military departments (as defined in section 102 of title 5, United States Code),

"(ii) in any executive agency (as defined in section 105 of such title),

"(iii) in any unit of the legislative or judicial branch of the Government which has positions in the competitive service,

"(iv) in a nonappropriated fund instrumentality under the jurisdiction of the Armed Forces, or

"(v) in the Library of Congress;

"(B) any individual employed by the United States Postal Service or the Postal Rate Commission; and

"(C) any individual employed by a State, political subdivision of a State, or an interstate governmental agency, other than such an individual—

"(i) who is not subject to the civil service laws of the State, political subdivision, or agency which employs him; and

"(ii) who—

"(I) holds a public elective office of that State, political subdivision, or agency,

"(II) is selected by the holder or such an office to be a member of his personal staff,

"(III) is appointed by such an officeholder to serve on a policymaking level, or

"(IV) who is an immediate adviser to such an officeholder with respect to the constitutional or legal powers of his office.

"(3) For purposes of subsection (u), such term does not include any individual employed by an employer engaged in agriculture if such individual is the parent, spouse, child, or other member of the employer's immediate family.".

(3) Section 3(h) is amended to read as follows:

"(h) 'Industry' means a trade, business, industry, or other activity, or branch or group thereof, in which individuals are gainfully employed.".

(4) Section 3(r) is amended by inserting "or" at the end of paragraph (2) and by

inserting after that paragraph the following new paragraph:

"(3) in connection with the activities of a public agency,".

(5) Section 3(s) is amended—

(A) by striking out in the matter preceding paragraph (1) "including employees handling, selling, or otherwise working on goods" and inserting in lieu thereof "or employees handling, selling, or otherwise working on goods or materials",

(B) by striking out "or" at the end of paragraph (3),

(C) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; or",

(D) by adding after paragraph (4) the following new paragraph:

"(5) is an activity of a public agency.", and

(E) by adding after the last sentence the following new sentence: "The employees of an enterprise which is a public agency shall for purposes of this subsection be deemed to be employees engaged in commerce, or in the production of goods for commerce, or employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce.".

(6) Section 3 is amended by adding after subsection (w) the following:

"(x) 'Public agency' means the Government of the United States; the government of a State or political subdivision thereof; any agency of the United States (including the United States Postal Service and Postal Rate Commission), a State, or a political subdivision of a State; or any interstate governmental agency.".

(b) Section 4 is amended by adding at the end thereof the following new subsection:

"(f) The Secretary is authorized to enter into an agreement with the Librarian of Congress with respect to any individual employed in the Library of Congress to provide for the carrying out of the Secretary's functions under this Act with respect to such individuals. Notwithstanding any other provision of this Act, or any other law, the Civil Service Commission is authorized to administer the provisions of this Act with respect to any individual employed by the United States (other than an individual employed in the Library of Congress, United States Postal Service, or Postal Rate Commission). Nothing in this subsection shall be construed to affect the right of an employee to bring an action for unpaid minimum wages, or unpaid overtime compensation, and liquidated damages under section 16(b) of this Act.".

(c) Section 7 is amended by adding at the end thereof the following new subsection:

"(k) No public agency shall be deemed to have violated subsection (a) with regard to any employee engaged in fire protection or law enforcement activities (including security personnel in correctional institutions) if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of twenty-eight consecutive days is accepted in lieu of the workweek of seven consecutive days for purposes of overtime computation and if the employee receives compensation at a rate not less than one and one-half times the regular rate at which he is employed for his employment in excess of—

"(1) one hundred and ninety-two hours in each such twenty-eight day period during the first year from the effective date of the Fair Labor Standards Amendments of 1974;

"(2) one hundred and eighty-four hours in each such twenty-eight day period during the second year from such date;

"(3) one hundred and seventy-six hours in each such twenty-eight day period during the third year from such date;

"(4) one hundred and sixty-eight hours in each such twenty-eight day period during the fourth year from such date; and

"(5) one hundred and sixty hours in each such twenty-eight day period thereafter.".

(d)(1) The second sentence of section 16(b) is amended to read as follows: "Action to recover such liability may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and other employees similarly situated.".

(2)(A) Section 6 of the Portal-to-Portal Pay Act of 1947 is amended by striking out the period at the end of paragraph (c) and by inserting in lieu thereof a semicolon and by adding after such paragraph the following:

"(d) with respect to any cause of action brought under section 16(b) of the Fair Labor Standards Act of 1938 against a State or a political subdivision of a State in a district court of the United States on or before April 18, 1973, the running of the statutory periods of limitation shall be deemed suspended during the period beginning with the commencement of any such action and ending one hundred and eighty days after the effective date of the Fair Labor Standards Amendments of 1974, except that such suspension shall not be applicable if in such action judgment has been entered for the defendant on the grounds other than State immunity from Federal jurisdiction.".

(B) Section 11 of such Act is amended by striking out "(b)" after "section 16".

DOMESTIC SERVICE WORKERS

SEC. 7. (a) Section 2(a) is amended by inserting at the end the following new sentence: "The Congress further finds that the employment of persons in domestic service in households affects commerce."

(b)(1) Section 6 is amended by adding after subsection (e) the following new subsection:

"(f) Any employee who in any workweek is employed in domestic service in a household shall be paid wages at a rate not less than the wage rate in effect under section 6(b) unless such employee's compensation for such service would not because of section 209(g) of the Social Security Act constitute 'wages', for purposes of title II of such Act."

(2) Section 7 is amended by adding after the subsection added by section 6(c) of this Act the following new subsection:

"(l) Subsection (a)(1) shall apply with respect to any employee who in any workweek is employed in domestic service in a household unless such employee's compensation for such work would not because of section 209(g) of the Social Security Act constitute 'wages', for purposes of title II of such Act."

(3) Section 13(a) is amended by adding at the end the following new paragraph:

"(15) any employee employed on a casual basis in domestic service employment to provide babysitting services or any employee employed in domestic service employment to provide companionship services for individuals who (because of age or infirmity) are unable to care for themselves (as such terms are defined and delimited by regulations of the Secretary)."

(4) Section 13(b) is amended by striking out the period at the end of paragraph (19) and inserting in lieu thereof "; or " and by adding after that paragraph the following new paragraph:

"(20) any employee who in domestic service in a household and who resides in such household; or".

RETAIL AND SERVICE ESTABLISHMENTS

SEC. 8. (a) Effective July 1, 1974, section 13(a)(2) (relating to employees of retail and service establishments) is amended by striking out "$250,000" and inserting in lieu thereof "$225,000".

(b) Effective July 1, 1975, such section is amended by striking out "$225,000" and inserting in lieu thereof "$200,000".

(c) Effective July 1, 1976, such section is amended by striking out "or such establishment has an annual dollar volume of sales which is less than $200,000 (exclusive of excise taxes at the retail level which are separately stated)".

TOBACCO EMPLOYEES

SEC. 9. (a) Section 7 is amended by adding after the subsection added by section 7(b)(2) of this Act the following:

"(m) For a period or periods of not more than fourteen workweeks in the aggregate in any calendar year, any employer may employ any employee for a workweek in excess of that specified in subsection (a) without paying the compensation for overtime employment prescribed in such subsection, if such employee—

"(1) is employed by such employer—

"(A) to provide services (including stripping and grading) necessary and incidental to the sale at auction of green leaf tobacco of type 11, 12, 13, 14, 21, 22, 23, 24, 31, 35, 36, or 37 (as such types are defined by the Secretary of Agriculture), or in auction sale, buying, handling, stemming, redrying, packing, and storing of such tobacco.

"(B) in auction sale, buying, handling, sorting, grading, packing, or storing green leaf tobacco of type 32 (as such type is defined by the Secretary of Agriculture), or

"(C) in auction sale, buying, handling, stripping, sorting, grading, sizing, packing, or stemming prior to packing, of perishable cigar leaf tobacco of type 41, 42, 43, 44, 45, 46, 51, 52, 53, 54, 55, 61, or 62 (as such types are defined by the Secretary of Agriculture); and

"(2) receives for—

"(A) such employment by such employer which is in excess of ten hours in any workday, and

"(B) such employment by such employer which is in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed.

An employer who receives an exemption under this subsection shall not be eligible for any other exemption under this section.".

(b)(1) Section 13(a)(14) is repealed.

(2) Section 13(b) is amended by adding after the paragraph added by section 7(b)(4) of this Act the following new paragraph:

"(21) any agricultural employee employed in the growing and harvesting of shade-grown tobacco who is engaged in the processing (including, but not limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling) of such tobacco, prior to the stemming process, for use as cigar wrapper tobacco; or".

TELEGRAPH AGENCY EMPLOYEES

SEC. 10. (a) Section 13(a)(11) (relating to telegraph agency employees) is repealed.

(b)(1) Section 13(b) is amended by adding after the paragraph added by section 9(b)(2) of this Act the following new paragraph:

"(22) any employee or proprietor in a retail or service establishment, which qualifies as an exempt retail or service establishment under paragraph (2) of subsection (a) with respect to whom the provisions of sections 6 and 7 would not otherwise apply, engaged in handling telegraphic messages for the public under an agency or contract arrangement with a telegraph company where the telegraph message revenue of such agency does not exceed $500 a month and receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or".

(2) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, section 13(b)(22) is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(3) Effective two years after such date, section 13(b)(22) is repealed.

SEAFOOD CANNING AND PROCESSING EMPLOYEES

SEC. 11. (a) Section 13(b)(4) (relating to fish and seafood processing employees) is amended by inserting "who is" after "employee", and by inserting before the semicolon the following: ", and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

(b) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, section 13(b)(4) is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours."

(c) Effective two years after such date, section 13(b)(4) is repealed.

NURSING HOME EMPLOYEES

SEC. 12. (a) Section 13(b)(8) (insofar as it relates to nursing home employees) is amended by striking out "any employee who (A) is employed by an establishment which is an institution (other than a hospital) primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises" and the remainder of that paragraph.

(b) Section 7(j) is amended by inserting after "a hospital" the following: "or an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises".

HOTEL, MOTEL, AND RESTAURANT EMPLOYEES AND TIPPED EMPLOYEES

SEC. 13. (a) Section 13(b)(8) (insofar as it relates to hotel, motel, and restaurant employees) (as amended by section 12) is amended (1) by striking out "any employee" and inserting in lieu thereof "(A) any employee (other than an employee of a hotel or motel who is employed to perform maid or custodial services) who is," (2) by inserting before the semicolon the following: "and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed", and (3) by adding after such section the following:

"(B) any employee who is employed by a hotel or motel to perform maid or custodial services and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed; or".

(b) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, subparagraphs (A) and (B) of section 13(b)(8) are each amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-six hours".

(c) Effective two years after such date, subparagraph (B) of section 13(b)(8) is amended by striking out "forty-six hours" and inserting in lieu thereof "forty-four hours".

(d) Effective three years after such date, subparagraph (B) of section 13(b)(8) is repealed and such section is amended by striking out "(A)".

(e) The last sentence of section 3(m) is amended to read as follows: "In determining the wage of a tipped employee, the amount paid such employee by his employer shall be deemed to be increased on account of tips by an amount determined by the employer, but not by an amount in excess of 50 per centum of the applicable minimum wage rate, except that the amount of the increase on account of tips determined by the employer may not exceed the value of tips actually received by the employee. The previous sentence shall not apply with respect to any tipped employee unless (1) such employee has been informed by the employer of the provisions of this section, and (2) all tips received by such employee have been retained by the employee, except that nothing herein shall prohibit the pooling of tips among employees who customarily and regularly receive tips.".

SALESMEN, PARTSMEN, AND MECHANICS

SEC. 14. Section 13(b)(10) (relating to salesmen, partsmen, and mechanics) is amended to read as follows:

"(10)(A) any salesman primarily engaged in selling automobiles, trailers, trucks, farm implements, boats, or aircraft if he is employed by a nonmanufacturing establishment primarily engaged in the business of selling such boats or vehicles to ultimate purchasers; or

"(B) any partsman primarily engaged in selling parts for automobiles, trucks, or farm implements and any mechanic primarily engaged in servicing such vehicles, if they are employed by a nonmanufacturing establishment primarily engaged in the business of selling such vehicles to ultimate purchasers; or".

FOOD SERVICE ESTABLISHMENT EMPLOYEES

SEC. 15. (a) Section 13(b)(18) (relating to food service and catering employees) is amended by inserting immediately before the semicolon the following: "and who receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed."

(b) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, such section is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours"

(c) Effective two years after such date, such section is repealed.

BOWLING EMPLOYEES

SEC. 16. (a) Effective one year after the effective date of the Fair Labor Standards Amendments of 1974, section 13(b)(19) (relating to employees of bowling establishments) is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(b) Effective two years after such date, such section is repealed.

SUBSTITUTE PARENTS FOR INSTITUTIONALIZED CHILDREN

SEC. 17. Section 13(b) is amended by inserting after the paragraph added by section 10(b)(1) of this Act the following new paragraph:

"(23) any employee who is employed with his spouse by a nonprofit education institution to serve as the parents of children—

"(A) who are orphans or one of whose natural parents is deceased, or

"(B) who are enrolled in such institution and reside in residential facilities of the institution, while such children are in residence at such institution.

if such employee and his spouse reside in such facilities, receive, without cost, board and lodging from such institution, and are together compensated, on a cash basis, at an annual rate of not less than $10,000; or".

EMPLOYEES OF CONGLOMERATES

SEC. 18. Section 13 is amended by adding at the end thereof the following:

"(g) The exemption from section 6 provided by paragraphs (2) and (6) of subsection (a) of this section shall not apply with respect to any employee employed by an establishment (1) which controls, is controlled by, or is under common control with, another establishment the activities of which are not related for a common business purpose to, but materially support, the activities of the establishment employing such employee; and (2) whose annual gross volume of sales made or business done, when combined with the annual gross volume of sales made or business done by each establishment which controls, is controlled by, or is under common control with, the establishment employing such employee, exceeds $10,000,000 (exclusive of excise taxes at the retail level which are separately stated), except that the exemption from section 6 provided by subparagraph (2) of subsection (a) of this section shall apply with respect to any establishment described in this subsection which has an annual dollar volume of sales which would permit it to qualify for the exemption provided in paragraph (2) of subsection (a) if it were in an enterprise described in section 3(s).".

SEASONAL INDUSTRY EMPLOYEES

SEC. 19. (a) Sections 7(c) and 7(d) are each amended—

(1) by striking out "ten workweeks" and inserting in lieu thereof "seven workweeks", and

(2) by striking out "fourteen workweeks" and inserting in lieu thereof "ten work weeks".

(b) Section 7(c) is amended by striking out "fifty hours" and inserting in lieu thereof "forty-eight hours".

(c) Effective January 1, 1975, sections 7(c) and 7(d) are each amended—

(1) by striking out "seven workweeks" and inserting in lieu thereof "five workweeks", and

(2) by striking out "ten workweeks" and inserting in lieu thereof "seven workweeks".

(d) Effective January 1, 1976, sections 7(c) and 7(d) are each amended—

(1) by striking out "five workweeks" and inserting in lieu thereof "three workweeks", and

(2) by striking out "seven workweeks" and inserting in lieu thereof "five workweeks".

(e) Effective December 31, 1976, sections 7(c) and 7(d) are repealed.

COTTON GINNING AND SUGAR PROCESSING EMPLOYEES

SEC. 20. (a) Section 13(b)(15) is amended to read as follows:

"(15) any employee engaged in the processing of maple sap into sugar (other than refined sugar) or syrup; or".

(b)(1) Section 13(b) is amended by adding after paragraph (23) the following new paragraph:

"(24) any employee who is engaged in ginning of cotton for market in any place of employment located in a county where cotton is grown in commercial quantities and who receives compensation for employment in excess of—

"(A) seventy-two hours in any workweek for not more than six workweeks in a year.

"(B) sixty-four hours in any workweek for not more than four workweeks in that year,

"(C) fifty-four hours in any workweek for not more than two workweeks in that year, and

"(D) forty-eight hours in any other workweek in that year,

at a rate not less than one and one-half times the regular rate at which he is employed; or".

(2) Effective January 1, 1975, section 13(b)(24) is amended—

(A) by striking out "seventy-two" and inserting in lieu thereof "sixty-six";

(B) by striking out "sixty-four" and inserting in lieu thereof "sixty";

(C) by striking out "fifty-four" and inserting in lieu thereof "fifty";

(D) by striking out "and" at the end of subparagraph (C); and

(E) by striking out "forty-eight hours in any other workweek in that year" and inserting in lieu thereof the following: "forty-six

hours in any workweek for not more than two workweeks in that year; and

"(E) forty-four hours in any other workweek in that year,".

(3) Effective January 1, 1976, section 13(b)(24) is amended—

(A) by striking out "sixty-six" and inserting in lieu thereof "sixty";

(B) by striking out "sixty" and inserting in lieu thereof "fifty-six";

(C) by striking out "fifty" and inserting in lieu thereof "forty-eight";

(D) by striking out "forty-six" and inserting in lieu thereof "forty-four"; and

(E) by striking out "forty-four" and inserting in lieu thereof "forty".

(c)(1) Section 13(b) is amended by adding after paragraph (24) the following new paragraph:

"(25) any employee who is engaged in the processing of sugar beets, sugar beet molasses, or sugarcane into sugar (other than refined sugar) or syrup and who receives compensation for employment in excess of—

"(A) seventy-two hours in any workweek for not more than six workweeks in a year,

"(B) sixty-four hours in any workweek for not more than four workweeks in that year,

"(C) fifty-four hours in any workweek for not more than two workweeks in that year, and

"(D) forty-eight hours in any other workweek in that year,

at a rate not less than one and one-half times the regular rate at which he is employed; or".

(2) Effective January 1, 1975, section 13(b)(25) is amended—

(A) by striking out "seventy-two" and inserting in lieu thereof "sixty-six";

(B) by striking out "sixty-four" and inserting in lieu thereof "sixty";

(C) by striking out "fifty-four" and inserting in lieu thereof "fifty";

(D) by striking out "and" at the end of subparagraph (C); and

(E) by striking out "forty-eight hours in any other workweek in that year" and inserting in lieu thereof the following: "forty-six hours in any workweek for not more than two workweeks in that year, and

"(E) forty-four hours in any other workweek in that year,".

(3) Effective January 1, 1976, section 13(b)(25) is amended—

(A) by striking out "sixty-six" and inserting in lieu thereof "sixty";

(B) by striking out "sixty" and inserting in lieu thereof "fifty-six";

(C) by striking out "fifty" and inserting in lieu thereof "forty-eight";

(D) by striking out "forty-six" and inserting in lieu thereof "forty-four"; and

(E) by striking out "forty-four" and inserting in lieu thereof "forty".

LOCAL TRANSIT EMPLOYEES

SEC. 21. (a) Section 7 is amended by adding after the subsection added by section 9(a) of this Act the following new subsection:

"(n) In the case of an employee of an employer engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier (regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit) in determining the hours of employment of such an employee to which the rate prescribed by subsection (a) applies there shall be excluded the hours such employee was employed in charter activities by such employer if (1) the employee's employment in such activities was pursuant to an agreement or understanding with his employer arrived at before engaging in such employment, and (2) if employment in such activities is not part of such employee's regular employment."

(b)(1) Section 13(b)(7) (relating to employees of street, suburban, or interurban electric railways or local trolley or motorbus carriers) is amended by striking out ", if the rates and services of such railway or carrier are subject to regulation by a State or local agency" and inserting in lieu thereof the following: "(regardless of whether or not such railway or carrier is public or private or operated for profit or not for profit), if such employee receives compensation for employment in excess of forty-eight hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed".

(2) Effective one year after the effective date of the Fair Labor Standards Amendments of 1973, 1974, such section is amended by striking out "forty-eight hours" and inserting in lieu thereof "forty-four hours".

(3) Effective two years after such date, such section is repealed.

COTTON AND SUGAR SERVICES EMPLOYEES

SEC. 22. Section 13 is amended by adding after the subsection added by section 18(a) the following:

"(h) The provisions of section 7 shall not apply for a period or periods of not more than fourteen workweeks in the aggregate in any calendar year to any employee who—

"(1) is employed by such employer—

"(A) exclusively to provide services necessary and incidental to the ginning of cotton in an establishment primarily engaged in the ginning of cotton;

"(B) exclusively to provide services necessary and incidental to the receiving, handling, and storing of raw cotton and the compressing of raw cotton when performed at a cotton warehouse or compress-warehouse facility, other than one operated in conjunction with a cotton mill, primarily engaged in storing and compressing;

"(C) exclusively to provide services necessary and incidental to the receiving, handling, storing, and processing of cottonseed in an establishment primarily engaged in the receiving, handling, storing, and processing of cottonseed; and

"(D) exclusively to provide services necessary and incidental to the processing of sugar cane or sugar beets in an establishment primarily engaged in the processing of sugar cane or sugar beets; and".

"(2) receiver for—

"(A) such employment by such employer which is in excess of ten hours in any workday, and

"(B) such employment by such employer which is in excess of forty-eight hours in any workweek,

compensation at a rate not less than one and one-half times the regular rate at which he is employed.

Any employer who receives an exemption under this subsection shall not be eligible for any other exemption under this section or section 7.".

OTHER EXEMPTIONS

SEC. 23. (a)(1) Section 13(a)(9) (relating to motion picture theater employees) is repealed.

(2) Section 13(b) is amended by adding after paragraph (25) the following new paragraph:

"(26) any employee employed by an establishment which is a motion picture theater;".

(b)(1) Section 13(a)(13) (relating to small logging crews) is repealed.

(2) Section 13(b) is amended by adding after paragraph (26) the following new paragraph:

"(27) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight.".

(c) Section 13(b)(2) (insofar as it relates to pipeline employees) is amended by inserting after "employer" the following: "engaged in the operation of a common carrier by rail and".

EMPLOYMENT OF STUDENTS

SEC. 24. (a) Section 14 is amended by striking out subsections (a), (b), and (c) and inserting in lieu thereof the following:

"SEC. 14. (a) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations or by orders provide for the employment of learners, of apprentices, and of messengers employed primarily in delivering letters and messages, under special certificates issued pursuant to regulations of the Secretary, at such wages lower than the minimum wage applicable under section 6 and subject to such limitation as to time, number, proportion, and length of service as the Secretary shall prescribe.

"(b)(1)(A) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide, in accordance with subparagraph (B), for the employment, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 or not less than $1.60 an hour, whichever is the higher (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6(c)), of full-time students (regardless of age but in compliance with applicable child labor laws) in retail or service establishments.

"(B) Except as provided in paragraph (4)(B), the proportion of student hours of employment under special certificates issued under subparagraph (A) to the total hours of employment of all employees in any retail or service establishment may not exceed (i) such proportion for the corresponding month of the twelve-month period preceding May 1, 1961, (ii) in the case of a retail or service establishment whose employees (other than employees engaged in commerce or in the production of goods for commerce) are covered by this Act for the first time on or after the effective date of the Fair Labor Standards Amendments of 1966 or the Fair Labor Standards Amendments of 1974, such proportion for the corresponding month of the twelve-month period immediately prior to the applicable effective date, or (iii) in the case of a retail or service establishment coming into existence after May 1, 1961, or a retail or service establishment for which records of student hours worked are not available, a proportion of student hours of employment to total hours of employment of all employees based on the practice during the twelve-month period preceding May 1, 1961, in similar establishments of the same employer in the same general metropolitan area in which the new establishment is located, similar establishments of the same employer in the same or nearby counties if the new establishment is not in a metropolitan area, or other establishments of the same general character operating in the community or the nearest comparable community. For the purposes of the preceding sentence, the term 'student hours of employment' means student hours worked at less than $1.00 an hour, except that such term shall include, in States whose minimum wages were at or above $1.00 an hour in the base year, hours worked by students at the State minimum wage in the base year.

"(2) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or

order provide for the employment, at a wage rate not less than 85 per centum of the wage rate in effect under section 6(a)(5) or not less than $1.30 an hour, whichever is the higher (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at the wage rate not less than 85 per centum of the wage rate in effect under section 6(c)(3)), of full-time students (regardless of age but in compliance with applicable child labor laws) in any occupation in agriculture.

"(3) The Secretary, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by special certificate issued under a regulation or order provide for the employment by an institution of higher education, at a wage rate not less than 85 per centum of the otherwise applicable wage rate in effect under section 6 or not less than $1.60 an hour, whichever is the higher (or in the case of employment in Puerto Rico or the Virgin Islands not described in section 5(e), at a wage rate not less than 85 per centum of the wage rate in effect under section 6(c)), of full-time students (regardless of age but in compliance with applicable child labor laws) who are enrolled in such institution. The Secretary shall by regulation prescribe standards and requirements to insure that this paragraph will not create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the minimum wage rate authorized by this paragraph is applicable.

"(4)(A) A special certificate issued under paragraph (1), (2), or (3) shall provide that the student or students for whom it is issued shall, except during vacation periods, be employed on a part-time basis and not in excess of twenty hours in any workweek.

"(B) If the issuance of a special certificate under paragraph (1) or (2) for an employer will cause the number of students employed by such employer under special certificates issued under this subsection to exceed four, the Secretary may not issue such a special certificate for the employment of a student by such employer unless the Secretary finds employment of such student will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection. If the issuance of a special certificate under paragraph (1) or (2) for an employer will not cause the number of students employed by such employer under special certificates issued under this subsection to exceed four—

"(i) the Secretary may issue a special certificate under paragraph (1) or (2) for the employment of a student by such employer if such employer certifies to the Secretary that the employment of such student will not reduce the full-time employment opportunities of persons other than those employed under special certificates issued under this subsection, and

"(ii) in the case of an employer which is a retail or service establishment, subparagraph (B) of paragraph (1) shall not apply with respect to the issuance of special certificates for such employer under such paragraph.

The requirement of this subparagraph shall not apply in the case of the issuance of special certificates under paragraph (3) for the employment of full-time students by institutions of higher education; except that if the Secretary determines that an institution of higher education is employing students under certificates issued under paragraph (3) but in violation of the requirements of that paragraph or of regulations issued thereunder, the requirements of this subparagraph shall apply with respect to the issuance of special certificates under paragraph (3) for the employment of students by such institution.

"(C) No special certificate may be issued under this subsection unless the employer for whom the certificate is to be issued provides evidence satisfactory to the Secretary of the student status of the employees to be employed under such special certificate."

(b) Section 14 is further amended by redesignating subsection (d) as subsection (c) and by adding at the end the following new subsection:

"(d) The Secretary may by regulation or order provide that sections 6 and 7 shall not apply with respect to the employment by any elementary or secondary school of its students if such employment constitutes, as determined under regulations prescribed by the Secretary, an integral part of the regular education program provided by such school and such employment is in accordance with applicable child labor laws."

(c) Section 4(d) is amended by adding at the end thereof the following new sentence: "Such report shall also include a summary of the special certificates issued under section 14(b)."

CHILD LABOR

SEC. 25. (a) Section 12 (relating to child labor) is amended by adding at the end thereof the following new subsection:

"(d) In order to carry out the objectives of this section, the Secretary may by regulation require employers to obtain from any employee proof of age."

(b) Section 13(c)(1) (relating to child labor in agriculture) is amended to read as follows:

"(c)(1) Except as provided in paragraph (2), the provisions of section 12 relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

"(A) is less than twelve years of age and (i) is employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or (ii) is employed, with the consent of his parent or person standing in the place of his parent, on a farm, none of the employees of which are (because of section 13(a)(6)(A)) required to be paid at the wage rate prescribed by section 6(a)(5),

"(B) is twelve years or thirteen years of age and (i) such employment is with the consent of his parent or person standing in the place of his parent, or (ii) his parent or such person is employed on the same farm as such employee, or

"(C) is fourteen years of age or older.".

(c) Section 16 is amended by adding at the end thereof the following new subsection:

"(e) Any person who violates the provisions of section 12, relating to child labor, or any regulation issued under that section, shall be subject to a civil penalty of not to exceed $1,000 for each such violation. In determining the amount of such penalty, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, may be—

"(1) deducted from any sums owing by the United States to the person charged;

"(2) recovered in a civil action brought by the Secretary in any court of competent jurisdiction, in which litigation the Secretary shall be represented by the Solicitor of Labor; or

"(3) ordered by the court in an action brought under section 15(a)(4), to be paid to the Secretary.

Any administrative determination by the Secretary of the amount of such penalty shall be final, unless within fifteen days after receipt of notice thereof by certified mail the person charged with the violation takes exception to the determination that the violations for which the penalty is imposed occurred, in which event final determination of the penalty shall be made in an administrative proceeding after opportunity for hearing in accordance with section 554 of title 5, United States Code, and regulations to be promulgated by the Secretary. Sums collected as penalties pursuant to this section shall be applied toward reimbursement of the costs of determining the violations and assessing and collecting such penalties, in accordance with the provisions of section 2 of an Act entitled 'An Act to authorize the Department of Labor to make special statistical studies upon payment of the cost thereof, and for other purposes' (29 U.S.C. 9a)."

SUITS BY SECRETARY FOR BACK WAGES

SEC. 26. The first three sentences of section 16(c) are amended to read as follows: "The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under section 6 or 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation and an equal amount as liquidated damages. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary in an action under this subsection in which a recovery is sought of unpaid minimum wages or unpaid overtime compensation under sections 6 and 7 or liquidated or other damages provided by this subsection owing to such employee by an employer liable under the provision of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary."

ECONOMIC EFFECTS STUDIED

SEC. 27. Section 4(d) is amended by—

(1) inserting "(1)" immediately after "(d)",

(2) inserting in the second sentence after the term "minimum wages" the following: "and overtime coverage"; and

(3) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall conduct studies on the justification or lack thereof for each of the special exemptions set forth in section 13 of this Act, and the extent to which such exemptions apply to employees of establishment described in subsection (g) of such section and the economic effects of the application of such exemptions to such employees. The Secretary shall submit a report of his findings and recommendations to the Congress with respect to the studies conducted under this paragraph not later than January 1, 1976.".

AGE DISCRIMINATION

SEC. 28. (a)(1) The first sentence of section 11(b) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 630(b)) is amended by striking out "twenty-five" and inserting in lieu thereof "twenty".

Nondiscrimination on Account of Age in Government Employment

(2) The second sentence of section 11(b) is amended to read as follows: "The term also means (1) any agent of such a person, and (2) a State or political subdivision of a State and any agency or instrumentality of a State or a political subdivision of a State, and any interstate agency, but such term does not include the United States, or

a corporation wholly owned by the Government of the United States."

(3) Section 11(c) of such Act is amended by striking out ", or an agency of a State or political subdivision of a State, except that such term shall include the United States Employment Service and the system of State and local employment services receiving Federal assistance".

(4) Section 11(f) of such Act is amended to read as follows:

"(f) The term 'employee' means an individual employed by any employer except that the term 'employee' shall not include any person elected to public office in any State or political subdivision of any State by the qualified voters thereof, or any person chosen by such officer to be on such officer's personal staff, or an appointee on the policy-making level or an immediate adviser with respect to the exercise of the constitutional or legal powers of the office. The exemption set forth in the preceding sentence shall not include employees subject to the civil service laws of a State government, governmental agency, or political subdivision."

(5) Section 16 of such Act is amended by striking the figure "$3,000,000", and inserting in lieu thereof "$5,000,000".

(b) (1) The Age Discrimination in Employment Act of 1967 is amended by redesignating sections 15 and 16, and all references thereto, as section 16 and section 17, respectively.

(2) The Age Discrimination in Employment Act of 1967 is further amended by adding immediately after section 14 the following new section:

"NONDISCRIMINATION ON ACCOUNT OF AGE IN FEDERAL GOVERNMENT EMPLOYMENT

"SEC. 15. (a) All personnel actions affecting employees or applicants for employment (except with regard to aliens employed outside the limits of the United States) in military departments as defined in section 102 of title 5, United States Code, in executive agencies as defined in section 105 of title 5, United States Code (including employees and applicants for employment who are paid from nonappropriated funds), in the United States Postal Service and the Postal Rate Commission, in those units in the government of the District of Columbia having positions in the competitive service, and in those units of the legislative and judicial branches of the Federal Government having positions in the competitive service, and in the Library of Congress shall be made free from any discrimination based on age.

"(b) Except as otherwise provided in this subsection, the Civil Service Commission is authorized to enforce the provisions of subsection (a) through appropriate remedies, including reinstatement or hiring of employees with or without backpay, as will effectuate the policies of this section. The Civil Service Commission shall issue such rules, regulations, orders, and instructions as it deems necessary and appropriate to carry out its responsibilities under this section. The Civil Service Commission shall—

"(1) be responsible for the review and evaluation of the operation of all agency programs designed to carry out the policy of this section, periodically obtaining and publishing (on at least a semiannual basis) progress reports from each such department, agency or unit;

"(2) consult with and solicit the recommendations of interested individuals, groups, and organizations relating to nondiscrimination in employment on account of age; and

"(3) provide for the acceptance and processing of complaints of discrimination in Federal employment on account of age.

"The head of each such department, agency, or unit shall comply with such rules, regulations, orders, and instructions of the Civil Service Commission which shall include a provision that an employee or applicant for employment shall be notified of any final action taken on any complaint of discrimination filed by him thereunder. Reasonable exemptions to the provisions of this section may be established by the Commission but only when the Commission has established a maximum age requirement on the basis of a determination that age is a bona fide occupational qualification necessary to the performance of the duties of the position. With respect to employment in the Library of Congress, authorities granted in this subsection to the Civil Service Commission shall be exercised by the Librarian of Congress.

"(c) Any persons aggrieved may bring a civil action in any Federal district court of competent jurisdiction for such legal or equitable relief as will effectuate the purposes of this Act.

"(d) When the individual has not filed a complaint concerning age discrimination with the Commission, no civil action may be commenced by any individual under this section until the individual has given the Commission not less than thirty days' notice of an intent to file such action. Such notice shall be filed within one hundred and eighty days after the alleged unlawful practice occurred. Upon receiving a notice of intent to sue, the Commission shall promptly notify all persons named therein as prospective defendants in the action and take any appropriate action to assure the elimination of any unlawful practice.

"(e) Nothing contained in this section shall relieve any Government agency or official of the responsibility to assure nondiscrimination on account of age in employment as required under any provision of Federal law."

EFFECTIVE DATE

SEC. 29. (a) Except as otherwise specifically provided, the amendments made by this Act shall take effect on the first day of the first full month which begins after the date of the enactment of this Act.

(b) Notwithstanding subsection (a), on and after the date of the enactment of this Act the Secretary of Labor is authorized to prescribe necessary rules, regulations, and orders with regard to the amendments made by this Act.

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, beginning at the conclusion of morning business on Tuesday, March 5, 1974, there be a time limitation of 2 hours on each amendment on S. 2747, the pending business, to be equally divided between the sponsor of the amendment and the manager of the bill or whomever he may designate; that there be 2 hours on the bill to be equally divided between the majority and minority leaders or whomever they may designate.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Montana?

Mr. JAVITS. Mr. President, what about the rule of germaneness on this matter?

Mr. MANSFIELD. The usual rule will apply.

Mr. JAVITS. Mr. President, if the Senator will withhold that for a moment——

Mr. MANSFIELD. Mr. President, I would include the Buckley amendment in the unanimous consent request.

The PRESIDING OFFICER. Is there objection that the agreement be in the usual form as requested?

Mr. GRIFFIN. With the understanding that the Buckley amendment would be germane.

The PRESIDING OFFICER. That is understood.

Mr. JAVITS. Mr. President, what about amendments to amendments? We always forget about that. Could we have a half-hour or 1 hour——

Mr. MANSFIELD. I would say one-half hour to be equally divided on the usual basis.

Mr. JAVITS. On amendments to amendments, and motions, and so forth?

Mr. MANSFIELD. That is right.

The PRESIDING OFFICER. Are these requests to be made part of the unanimous consent agreement?

Mr. MANSFIELD. Yes, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the unanimous consent agreement is as follows:

Ordered, That, during the consideration of S. 2747, a bill to amend the Fair Labor Standards Act of 1938, debate on any amendment shall be limited to 2 hours, to be equally divided and controlled by the mover of such amendment and the manager of the bill or his designee, and that debate on any amendment to an amendment, debatable motion or appeal shall be limited to ½ hour, to be equally divided and controlled by the mover of such and the manager of the bill or his designee: Provided, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: Provided further, That no amendment [except one amendment to be offered by the Senator from New York (Mr. Buckley), and amendments to be offered by the Senator from Ohio (Mr. Taft)] that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the majority and minority leaders or their designees: Provided, That the said leaders, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

Mr. MANSFIELD. Mr. President, if the distinguished Senator from New Jersey (Mr. WILLIAMS) will yield to me, I should like to suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent that during the consideration of the minimum wage bill, Dave Dunn and Gene Mittelman may be permitted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that amendments to be offered by the Senator from Ohio (Mr. TAFT) to S. 2747 shall be considered as germane under the previously agreed to unanimous-consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that during the deliberations on S. 2747 and rollcall votes thereon, the following staff members be permitted the privileges of the floor: Gerald Feder, Donald Elisburg, Robert Nagle, Eugene Mittelman, and Roger King.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILLIAMS. Mr. President, today we are beginning the debate for the third time in as many years on a bill to raise the minimum wage.

Two years ago the bill at issue would have raised the minimum wage to $2 an hour, on the effective date for most covered workers.

Last year, the raise would have been the same.

Two years ago the Senate passed that bill—last year the Congress passed the bill only to have the President veto the measure.

If either of those bills had become law, the minimum wage worker who works full time, year round, would look forward to being paid almost $4,600 a year, which is nearly at the poverty line.

Instead, these bills did not become law, and the minimum wage is still $1.60 an hour and, after working full time for a whole year, the minimum wage worker's annual earnings are still $1,300 below the poverty line.

The bill which the Senate begins to consider today is virtually identical to last year's bill and similar to the 1972 bill.

The committee has not provided for additional increases in the minimum wage over the last 2 years even though galloping inflation and the unconscionable delay have fully justified such increases.

The committee decided to stay with last year's rate schedule in the hope that enactment would finally be forthcoming if the annual wage bill increase required by the bill was less than the previous measures.

What does this mean in dollars—in dollar terms, this bill increases the wage bill on the effective date by $1.5 billion, while last year's bill would have increased the wage bill by $1.8 billion, and the 1972 wage bill by $2.8 billion.

The committee bill still has a $2 rate on the effective date.

The question again is, how long do we continue to delay this increase for the lower-paid workers?

Despite the enormous upheavals in our economy, and despite the erosion of the dollar which causes a strain on all of our budgets, we are proposing what was then, and most assuredly is now, a very modest bill.

For the most part, this legislation does not affect those workers to whom organization and skills have brought a fair share of the fruits of our society.

Rather, its primary design is to benefit that segment of our working population that is unorganized, unskilled, and toiling in poverty

This bill will incorporate into the Fair Labor Standards Act a breadth of coverage and a minimum wage level which will bring the act closer than at any time in its 35-year history to meeting its basic, stated objective—the elimination of "labor conditions detrimental to the maintenance of the minimum standard of living necessary for the health, efficiency and general well-being of workers."

This bill seeks to achieve this purpose by extending the law beyond the 49.4 million currently covered employees to 7 million additional workers employed in retail and service industries, Federal, State, and local government activities, on farms and as domestics in private homes; and, by increasing the minimum wage in steps to $2.20 an hour.

The Fair Labor Standards Act represents one of our fundamental efforts to direct economic forces into socially desirable channels.

It was designed to protect workers from poverty by fixing a floor below which wages could not fall, to discourage excessively long hours of work through requiring premium payments for overtime work, and to outlaw oppressive child labor in industry.

The desirability of this effort was emphasized by President Roosevelt, in his second inaugural address:

> I see one-third of a nation ill-housed, ill-clad, ill-nourished * * * The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little.

We have made substantial progress in eliminating poverty in America since President Roosevelt's 1937 inaugural address, but today 24.5 million Americans—12 percent of our population—are still living in poverty by official Government standards.

The present minimum wage of $1.60 yields to a full-time working head of a family of four a gross weekly wage of $64 or $3,200 per year, almost $1,300 less than the poverty level and leaves the working poor family eligible for welfare.

The wage of $1.60 an hour—$1.30 for farm workers—was set by the Congress in 1966.

At that time, it was heralded as a wage rate which would move the working poor above the poverty threshold.

However, economic developments in the last several years have drastically curtailed the purchasing power of the minimum wage.

Between 1966, when Congress amended the FLSA to increase the Federal minimum wage from $1.25 to $1.60 an hour, and December 1973, the Consumer Price Index rose 42.5 percent. Between February 1, 1968, the date the $1.60 rate actually became effective for most workers, and December 1973, the Consumer Price Index rose 35.4 percent.

Thus, a substantial increase in the minimum wage is necessary merely to restore the purchasing power of low-wage workers to the levels established by Congress in 1966.

A minimum rate of $2.28 an hour is required merely to compensate for increases in the Consumer Price Index between 1966 and December 1973.

Most witnesses before the committee during the past 3 years have differed as to how much of an increase in the minimum wage should be legislated, and how fast that increase should be implemented, but the testimony overwhelmingly pointed up the need for an increase now.

The Secretary of Labor, for example, testified in favor of a minimum wage increase, citing a general rising trend in wages, and particularly rising prices.

Pointing to the rapidly rising cost of living last year, Secretary Brennan said:

> Workers in the low-wage sectors of our economy have been the hardest hit. Generally, they do not have the skills or bargaining position necessary to increase their wage as the cost of living goes up. . . .

And it has gotten significantly worse since then. The present bill is an attempt to insure that millions of low-wage workers throughout the Nation—workers whom this act is specifically designed to protect—will regain the ground they have lost because of the inflation which we have experienced in recent years.

Congress recognized in the Economic Stabilization Act Amendments of 1971 and 1973 that these low-wage workers, should not be subject to the wage controls currently applicable to other workers, by exempting from controls increases in the minimum wage and defining substandard earnings to mean earning less than those resulting from a wage or salary rate which yields $3.50 per hour or less.

I will restate my belief that a successful anti-inflation program cannot depend upon keeping the income of millions of American workers below officially established poverty levels.

I support the committee's view that by raising the minimum wage rate, extending minimum wage protection to millions of low-wage workers who do not currently enjoy such protection, and eliminating overtime exemptions where they have been shown to be unnecessary, the economy will be stimulated through the injection of additional consumer spending and the creation of a substantial number of additional jobs.

Establishment of a minimum wage rate at a level which will at least assure the worker an income at or above the poverty level is essential to the reduction of the welfare rolls and overall reform of the welfare system in the United States.

The 35 percent increase in the consumer price index since the last mini-

mum wage increase in 1968 clearly shows the burden which inflation imposes on the minimum wage worker—the worker who typically does not get a raise unless the Congress mandates a raise through FLSA adjustments.

If additional support for a minimum wage increase appears necessary, one needs only to convert into an hourly wage rate the "lower" budget for a family of four.

According to the Bureau of Labor statistics, this budget by December 1973 costs $8,102 a year, or about $4.05 an hour.

In light of these figures, the recommended rates of $2 and $2.20 appear most conservative.

Labor Department studies on effects of minimum wage increases have looked repeatedly into the matter of indirect or ripple effects and have documented the fact that when the minimum is raised, the wage spread is narrowed and there is no general upward movement of wages.

We recognized that a higher minimum wage may mean increased employer costs, but it also means increased purchasing power in the hands of the poor, and a greater demand for goods and services.

For the worker, it means less hardship and greater dignity.

For the Government, it means lower welfare costs.

The economic effects studies of the Labor Department also completely discredit the thesis that minimum wage increases have any discernible effect on inflation.

Previous increases in the minimum wage rate of greater percentage than provided in the present bill have been absorbed easily by the economy, and there is no reason to assume that a different result would obtain under this bill.

In fact, the direct payroll costs of the committee bill will be only 0.4 percent of the total national wage bill in the first year, 0.3 percent in the second year, 0.2 percent in the third year, and 0.05 percent in the fourth year.

In short, this bill is not inflationary.

In the meantime, productivity has been rising and the increases are reflected in soaring profits and widening profit margins rather than in wages.

Prices have been skyrocketing, but wages appear to have been held in check.

Between 1972 and 1973, gross average hourly earnings increased 6.6 percent on top of increases of 6.4 percent between 1971 and 1972, and 6.5 percent between 1970 and 1971.

The minimum wage worker who is still at $1.60 an hour has not shared even in these modest, controlled wage increases.

That worker is still waiting for the Congress to act, and cannot help but be disillusioned by the legislative process when he or she realizes that prices for such staple items as hamburgers, fish, eggs, chuck roast, and potatoes are increasing at astronomic rates.

I would like to discuss briefly the major provisions of the bill.

The bill provides for a statutory minimum wage of $2.20 an hour for all covered workers, but establishes different time schedules for achieving this standard for various categories of employment.

Fundamental to our deliberations was the notion of parity—that all workers should be treated alike for purposes of minimum wage.

However, we were mindful of the historical development of the Fair Labor Standards Act and the need to mitigate the initial impact of expanded coverage.

Therefore, the bill provides for staged increases in the minimum wage depending upon when specific workers were first brought under the act.

All mainland nonfarm workers covered prior to 1966 will attain a $2.20 minimum wage 1 year from the effective date.

An additional step is provided for nonfarm workers newly covered under the 1966 and 1974 amendments.

They will reach parity with other workers at the $2.20 rate 2 years from the effective date.

Farm workers will achieve parity at the $2.20 rate 3 years after the effective date.

In addition, special provision is made for achieving minimum wage parity for workers in Puerto Rico and the Virgin Islands.

If the conditions that poverty breeds in this country are to be changed, poverty wages must be eliminated.

These conditions will not change unless the FLSA minimum wage is increased, because minimum wage workers rarely have the bargaining position or the skills necessary to increase their wages as the cost-of-living increases.

In essence, Congress must act in the interest of the Nation's working poor.

Workers who toil at the minimum wage level are poor people by the standards of our society.

They are working full time, but they are poor.

In the 1969 report on the minimum wage, Secretary of Labor Wirtz stated that:

> "Poverty" is erroneously identified in loose thinking with "unemployment." * * * Whatever basis there is in any of these criticisms or proposals (of antipoverty efforts) commends strongly a first step of seeing to it that when a person does work, he gets enough for it to support himself and his family.

A gross weekly income of $64, which is all that the current minimum wage provides to a full-time worker, hardly meets that criterion.

The provisions of the committee bill are consistent with the wage provisions of last year's Congress-approved bill.

The bill reflects an awareness that to raise the minimum wage without expanding the coverage of the act would serve to deny even the minimum benefits of the act to large groups of workers who have been denied the protection of the act for more than 30 years.

The committee reviewed present coverage, as well as the gaps therein, and determined that a strong need exists for covering domestics, additional workers in retail and service industries and in Government.

The committee also determined that local seasonal hand harvest laborers should be included for purposes of the 500 man-day test, which covers large farms.

The retention of the 500 man-day test provides that workers on small farms will not be covered. In other words, the bill does not reach out to those small farms, pretty much the small family farms.

The committee carefully examined the economic implications of extending coverage, and was persuaded that wages should go up for workers on the lowest rung of the wage ladder and that the economy could easily absorb these raises.

I ask unanimous consent to include in the RECORD a chart showing the expansion of coverage.

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

ESTIMATED NUMBER OF NONSUPERVISORY EMPLOYEES BROUGHT UNDER THE MINIMUM WAGE PROVISIONS OF THE FAIR LABOR STANDARDS ACT BY S. 2747 (WILLIAMS-JAVITS BILL)

[In thousands]

Industry	Presently covered by the minimum wage provisions of the FLSA	Exempt or not covered by minimum wage provisions of the FLSA		
		Total	Covered by S. 2747 [1]	Not covered by S. 2747
All industries	49,427	14,625	6,877	7,748
Private sector	45,898	9,546	1,798	7,748
Agriculture	513	719	25	694
Mining	568	5	----	5
Contract construction	3,608	17	----	17
Manufacturing	17,524	104	42	62
Transportation and public utilities	4,104	77	----	77
Wholesale trade	2,683	8	----	8
Retail trade	7,149	3,866	587	3,279
Finance, insurance, and real estate	2,662	151	----	151
Service industries (except private households)	7,087	2,539	126	2,413
Private households	----	2,060	1,018	1,042
Public sector	3,529	5,079	5,079	----
Federal Government	615	1,693	1,693	----
State and local government	2,914	3,386	3,386	----

[1] No estimates have been prepared of the number of employees of conglomerates with annual sales of more than $10,000,000 who would be brought under the act by S. 2747.

Note: Estimates exclude 2,147,000 outside salesmen and relate to May 1973 for agriculture, October 1973 for education and September 1973 for all other industries.

Mr. WILLIAMS. Mr. President, the committee bill extends the act to employees of individual retail and service establishments—except "mom and pop" stores—which are part of enterprises with gross annual receipts of more than $250,000.

The bill would not directly affect franchised or independently owned small—less than $250,000 annual receipts—retail and service firms, nor would it extend coverage to the so-called mom and pop stores.

The bill would bring under the minimum wage provisions of the act all employees in private household domestic service earning "wages"—$50 per quarter—for purposes of the Social Security Act, except casual babysitters, and companions, but retains an overtime exemption for such domestic service employees who reside on their employer's premises.

The reasons for extending the minimum wage protection of the act to domestics are so compelling and generally recognized as to make it hardly necessary to cite them.

The status of household work is far down in the scale of acceptable employment.

It is not only low-wage work, but it is highly irregular, has few, if any, nonwage benefits, is largely unprotected by unions or by any Federal or State labor standards.

S. 2747 extends FLSA coverage to almost 5 million nonsupervisory employees in the public sector not now covered by the act.

In 1966, some 3.3 million nonsupervisory Government employees, primarily employees in State and local hospitals, schools, and other institutions, were covered.

With enactment of the amendments contained in S. 2747, virtually all nonsupervisory Government employees will be covered.

Coverage of Federal employees is extended by the bill to most employees, including Wage Board employees, nonappropriated fund employees, and employees in the Canal Zone.

The committee bill charges the Civil Service Commission with responsibility for administration of the act so far as Federal employees—other than employees of the Postal Service, the Postal Rate Commission, or the Library of Congress—are concerned.

There are a number of reasons to cover employees of State and local governments.

The committee intends that Government apply to itself the same standard it applies to private employers.

Certainly, this is a principle that was enunciated clearly in the debates on substantially the same bill on the two prior occasions when it was before the Senate.

This principle was also manifested in 1972 when the Senate overwhelmingly voted to apply Federal equal employment opportunity standards to public sector employers.

Equity demands that a worker should not be asked to work for subminimum wages in order to subsidize his employer, whether that employer is engaged in private business or in Government business.

We made an effort to minimize any adverse effects of overtime requirements by providing for a phase-in of those public employees who are most frequently required to work more than 40 hours per week, the public safety and firefighting employees.

The bill includes a special overtime standard for law enforcement and fire protection employees, including security personnel in correctional institutions.

S. 2747 provides parity for covered farmworkers.

Under this proposal, the Fair Labor Standards Act would be amended to achieve a $2.20 minimum wage for all covered workers, including those employed in agriculture.

To facilitate adjustments to this new concept of wage equality, a period of staged increments has been introduced.

The schedule would be as follows: $1.60 during the first year after the effective date, $1.80 during the second year, $2 during the third year, and $2.20 thereafter.

S. 2747 amends the Fair Labor Standards Act by prohibiting the employment in agriculture of all children under the age of 12, except those working on farms owned or operated by their parents, or on noncovered farms, the small farms.

Children ages 12 through 15 will be permitted to work but only during hours when school is not in session, provided that all 12- and 13-year-olds must either receive written parental consent or work only on farms where their parents are employed.

Thirty-five years ago, Congress reacted to a national outcry by banning industrial child labor.

However, since 1938, the Nation has permitted in the fields what it has prohibited in the factories—oppressive and scandalous child labor.

This bill eliminates the shameful double standard.

The fresh-air sweatshop should become a thing of the past.

Mr. President, I will say that the farm sweatshops, even though they might be out of doors are not always blessed with fresh air. There is lots of dust and pollution. Even though it is under a roof that is the sky, up from the fields and out of the products of the fields comes a great deal that is unhealthy and does a great deal of damage to the otherwise fresh air.

The bill also provides for the gradual achievement of minimum wage parity for workers in Puerto Rico and the Virgin Islands with workers on the mainland, except that the minimum wage for certain hotel, motel, restaurant, and food service employees, as well as Federal and Virgin Island Government workers, will be the same as the minimum wage for counterpart mainland employees on the effective date.

S. 2747 repeals or modifies a number of the exemptions presently incorporated in the Fair Labor Standards Act, including some of the complete minimum wage and overtime exemptions as well as some which apply only to the overtime standard.

The Fair Labor Standards Act is a complex piece of social legislation.

In large part, the complexity of the law is an outgrowth of compromise entered into over a 30-year period in order to achieve, to the fullest extent possible, one basic purpose of the act.

A careful review led us to conclude that a number of the exemptions presently incorporated into the act should now be eliminated.

All workers are entitled to a meaningful minimum wage and to premium pay for overtime work.

We approached the matter of special exemptions by applying a simple rule.

Unless the proponents of an exemption made the case for continuing the exemption in its present form, it was modified or removed.

However, the bill provides for two special studies by the Secretary of Labor.

The first study is of the economic effects of the extensions of minimum wage and overtime coverage made by this bill, and the second study is of the justification, or lack thereof, for all the minimum wage and overtime exemptions remaining under sections (13(a) and 13(b)) of the Fair Labor Standards Act.

I ask unanimous consent to have printed at this point in the RECORD excerpts from the committee report explaining the treatment of exemptions in the bill.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM THE COMMITTEE REPORT

EXEMPTIONS

S. 2747 repeals or modifies a number of the exemptions presently incorporated in the Fair Labor Standards Act, including some of the complete minimum wage and overtime exemptions as well as some which apply only to the overtime standard.

The FLSA is a complex piece of social legislation. In large part the complexity of the law is an outgrowth of compromises entered into over a 30-year period in order to achieve, to the fullest extent possible, the basic purposes of the Act.

Careful review led the Committee to conclude that a number of the exemptions presently incorporated into the Act should now be eliminated or sharply modified. The Committee accepts as simple equity the basic concept that all workers are entitled to a meaningful minimum wage and to premium pay for overtime work. The Committee generally approached the matter of special exemptions by applying a simple rule. Unless the proponents of an exemption made the case for continuing the exemption in its present form, it was modified or removed. The Committee is aware that the low-wage worker, whose economic status is in large part determined by the FLSA, does not typically communicate with the Congress either by testifying on bills or by writing letters outlining his position on the legislation. As in the past, the Congress must represent the public conscience in the matter of the low-wage workers and minimum wage legislation.

The Committee is aware that the Department of Labor has been studying these exemptions over the years and many reports have been submitted to the Congress recommending that these exemptions be eliminated, phased out or modified. However, the Congress has taken action to remove only a limited number of special exemptions over the years.

Each time that the Act has been amended most of the special exemptions have been ignored. In large part, this reflected the fact that amendments to the Act are not enacted

until the level of the minimum wage is obsolete and the primary action of the Congress has been limited to raising the minimum wage to a meaningful level. Only in the course of enacting the last two series of amendments—1961 and 1966—did the Congress expand coverage at the same time as it raised the minimum wage. Although the question of whether a need for many of the special exemptions still existed was raised and there was recognition that there was no justification for continuing at least many of them, action was postponed.

This Committee can see no justification for further delay. The research surveys conducted by the Department of Labor have been summarized in special reports to the Congress as part of the annual submission under Section 4(d) of the FLSA. The special economic evaluations and appraisals were included in the Annual Reports of the Administrator of the Wage and Hour and Public Contract Divisions of the Department of Labor.

Included among the research surveys were studies on motion picture theaters, small logging, agricultural processing, state, county, and municipal employees, motor carriers, domestics, food service employees, and tips as a part of wages.

The administrative studies conducted by the Department of Labor have run the gamut of studies from those designed to expand coverage to include all activities "affecting commerce" to studies of how best to amend the statute to insure that employees are actually paid the back wages found due them under the statute.

The Committee believes that these matters have been studied too long and that steps to correct injustices must be taken now. The Committee notes that Secretary Brennan agreed in part with the view of the majority when he appeared before this Committee on June 7, 1973. He said, in part:

". . . one aspect of the Fair Labor Standards Act that gives me concern is the provisions which give certain industries exemptions from the minimum wage and overtime standards and in some cases just the overtime standard."

The Committee has concluded that certain exemptions can be eliminated or modified at this time without harm to the industry involved.

STUDY OF ECONOMIC EFFECTS OF CHANGES MADE BY THIS BILL AND OF REMAINING EXEMPTIONS

The bill provides for a special study by the Secretary of Labor, in addition to his usual annual report of the justification, or lack thereof, for all the minimum wage and overtime exemptions remaining under sections 13(a) and 13(b) of the FLSA. The Secretary's report on this study is due by January 1, 1976. Many of the remaining exemptions in section 13(a) and (b) have been in the law since 1938, and the Committee believes that each of them should be reviewed in the light of current conditions.

Motion picture theaters

S. 2747 repeals the minimum wage but retains the overtime exemption currently applicable to all employees of motion picture theaters. Approximately 59,000 workers are currently denied the protection of the FLSA because of this blanket exemption.

A 1966 study of motion picture theaters by the Department of Labor disclosed the prevalence of extremely low wages in the industry. While motion picture projectionists were paid well above the minimum wage, most employees were paid substandard wages. Concession attendants, cashiers, ushers, and janitors were paid well below the minimum wage.

In 1961, when motion picture theaters received a special minimum wage and overtime exemption, the poor economic condition of the industry was cited by industry representatives as a major reason for the exclusion.

This argument was repeated in 1966 when the Congress was considering amendments to the FLSA which would have eliminated this exemption. Industry representatives argued against removing the exemption on the basis that increased labor costs could not be passed on to consumers in the form of higher admission prices by motion picture theaters because of the depressed state of the industry.

However, the validity of this argument is now open to serious challenge. Price data published by the Bureau of Labor Statistics of the Department of Labor indicate that indoor movie admission costs have increased by 39 percent between 1967 and the beginning of 1972. Admission costs in drive-in movies have increased even more—43 percent since 1967. These increases were far in excess of price increases for products of covered industries and for almost all services covered by the Act.

The Congress has long recognized the need for minimum wage protection for employees in motion picture theaters. Conditions in the industry and the present price structure indicate that removal of this exemption would bring substantial benefits to low-wage workers and could be easily absorbed by the industry.

Small logging crews

The Committee bill removes the minimum wage exemption currently available to forestry and lumbering operations with 8 or fewer employees but retains an overtime exemption for such lumbering operations.

Prior to the 1966 amendments, the exemption applied to employers with 12 or fewer employees. In enacting the 1966 amendments the Congress reduced the 12-man test to an 8-man test and the House Committee report commented on the change as follows:

The decision on eight employees was made after careful consideration and investigation of conflicting facts. The Committee believes the eight-man criterion to be a sound basis for exemption at the present time, but intends to further investigate these logging operations.

According to the Department of Labor, about 42,000 employees are currently exempt under this provision. Many of these workers are paid very low wages and are, in effect, being asked to subsidize their employers.

The Committee found no adverse effect when minimum wage and overtime protection was extended to employers with 8–12 workers. However, employees of such loggers did benefit significantly from the protection of the FLSA. The Committee is persuaded that all logging employees should enjoy the minimum wage protection of the Act, and that this can be accomplished with ease at this time. The Committee was not satisfied that a case had been made for a continued minimum wage exemption. The Committee considered removing the complete minimum wage and overtime exemption but elected to retain the overtime exemption at this time. This continues the gradual approach to full coverage which has been applied to this industry.

The Committee considered the recordkeeping problems raised by the industry but concluded that current Department of Labor regulations on this point offered sufficient flexibility to meet the legitimate needs of this industry. The Committee noted in this regard that small loggers have been able to keep tax records and complex piece-rate records for some time.

Shade-grown tobacco

S. 2747 would remove the special minimum wage but retain the overtime exemption applicable to employees engaged in the processing of shade-grown tobacco prior to the stemming process for use as a cigar wrapper tobacco.

Prior to the *Mitchell* v. *Budd*, 350 U.S. 473 (1956) decision, it had been held that the processing of shade-grown tobacco was a continuation of the agricultural process and hence came within the scope of the term "agriculture." However, the U.S. Supreme Court ruled that workers engaged in processing leaf tobacco for cigar wrappers after delivery of the tobacco to bulking plants were not engaged in agriculture and were not exempt as agricultural employees, regardless of whether (1) the plants were operated exclusively for the processing of the tobacco grown by the operators, or (2) the employees who worked on the farms where the tobacco was grown also worked in the plants processing the tobacco. The Supreme Court decision laid particular emphasis on the fact that the processing operations substantially change the natural state of the leaf tobocco and that the farmers who grow the tobacco do not ordinarily perform the processing. Typically, this work is done in bulking plants.

The 1961 amendments to the FLSA provided a special exemption for processing shade-grown tobacco, thus negating the decision of the Supreme Court.

The Committee bill removes the special exemption because it has created a situation in which a tobacco processing employee who would otherwise enjoy the protection of the FLSA, loses such protection solely because he had previously worked in the fields where the tobacco was grown; co-workers who had not worked in the field enjoy "fair labor standards." The student certification program under section 14 of the Act as it relates to such field work is unaffected by this bill.

Agricultural processing industries

S. 1861 phases out the existing partial overtime exemptions for seasonal employers generally (Section 7c), and seasonal or seasonally-peaked employers specifically engaged in agricultural processing of perishable raw commodities (Section 7d). Based on 1973 Department of Labor estimates, 714,000 workers were employed in establishments qualifying for these exemptions.

The phase out of section 7(c) and 7(d) exemptions other than for cotton processing and sugar processing, is as follows:

1. On the effective date the seasonal periods for exemption are reduced from 10 weeks to 7 weeks and from 14 weeks to 10 weeks.

2. On such date, the workweek exemptions are reduced from 50 hours to 48 hours.

3. Effective January 1, 1975, the seasonal periods for exemption are reduced from 7 weeks to 5 weeks and from 10 weeks to 7 weeks.

4. Effective January 1, 1976, the seasonal periods for exemption are reduced from 5 weeks to 3 weeks and from 7 weeks to 5 weeks.

5. Effective January 1, 1977, sections 7(c) and 7(d) are repealed.

At present under Section 7(c), employers who are determined by the Secretary of Labor to be in industries seasonal in nature are free from FLSA overtime jurisdiction for a 14-week period during which employees may work up to 10 hours a day or fifty hours a week without being subject to a time and one-half wage rate.

Under the existing 7(d) exemption, employers designated by the Secretary of Labor to have either seasonal or seasonally-peaked agricultural processing operations involving perishable raw commodities are entitled to a 14 week period free of FLSA overtime restrictions if their employees do not exceed 10 hours a day or 48 hours a week during that time period.

Both Sections 7(c) and 7(d) have identical reciprocity clauses which entitles any employer who qualifies under the definition of both sections to receive an aggregate exemption of two ten-week periods (one under 7(c) and one under 7(d)) outside of

the FLSA overtime standard. Several industries have been determined as qualifying for the dual exemption.

The origins of these two sections date to the beginning of the FLSA in 1938. The predecessor of the current Section 7(c) was the former Section 7(b)(3) whose exemption provided for up to 12 hours a day or 56 hours a week before the FLSA overtime standard became effective. The present Section 7(d) is successor to the former section [7(c)], which had permitted among other things, year-round overtime exemptions for several categories of employers, engaged in agricultural processing. In addition, employers qualifying under both former sections could claim up to an aggregate of 28 weeks of exemptions.

However, in 1966, after 28 years of favored treatment, Congress determined that the agricultural processing industry no longer warranted the original Act's broadbrush treatment. Thus, as a result of the 1966 FLSA amendments Congress narrowed the exemptions to their present state.

The complete elimination of the agricultural processing overtime exemption was anticipated in the 1966 FLSA Amendments. The Conference Report stated in part:

It was the declared intention of the Conferees to give notice that the days of overtime exemptions for employees in the agricultural processing industry are rapidly drawing to a close because advances in technology are making the continuation of such exemptions unjustifiable.

A detailed two-volume Department of Labor survey, entitled "Agricultural Handling and Processing Industries—Overtime Exemptions Under the Fair Labor Standards Act, 1970", found with reference to Sections 7(c) and 7(d):

(1) Existing exemptions are not fully utilized.

(2) Many processing establishments are now paying premium rates for hours over 40 a week.

(3) Currently, some industries which qualify for 20 weeks of exemption are less seasonal than others which qualify for 14 weeks.

(4) A 40 hour basic straight time standard would eliminate inequities which currently exist between employers who now pay premium overtime rates either because they elect to do so voluntarily or because they are covered by a collective bargaining agreement and employers who avail themselves of the overtime exemption.

(5) Additional jobs could be created by second and third shift operations in those industries where large shipments of raw materials are received in relatively short periods.

(6) Technological advances in recent years have lengthened the storage life of perishable products.

(7) Grower-processor contracts permit the processor to specify the time for planting, harvesting, and delivery, and thus make possible better work-scheduling.

Based on the above finding, former Secretary of Labor (and present Secretary of the Treasury) George Shultz in his "Report to the Ninety-First Congress on Minimum Wage and Maximum Hours under FLSA" (January 1970), concluded:

"The study of overtime exemptions available to the agricultural handling and processing industries indicates the need for reappraising the favored position which has long been given these industries through exemption from the 40 hour maximum work week standard. It is my recommendation that the exemptions currently available under Section 7e, 7d, . . . be phased out."

These same thoughts were echoed by the current Secretary of Labor, Peter Brennan, at hearings before the Labor Subcommittee on June 7, 1973. Mr. Brennan stated:

"We believe that the Fair Labor Standards Act can be modified as to its present partial overtime exemption for seasonal industries and industries engaged in processing fresh fruits and vegetables.

"At one time the fresh food processing industry was in a very unusual position. Since it is entirely dependent on the timing and abundance of agricultural produce for its perishable "raw materials", it was necessary to operate almost continuously during harvest season. A great deal of overtime work was required in order to process the fresh food coming in from the farms before it spoiled.

"Advancements in technology, however, have now made it possible for initial processing to be accomplished rapidly and overtime requirements have been reduced. We believe that the present law can now be changed and would be glad to work out language with the Committee that would not adversely affect the employment situation nor add undue pressures to food prices, which are a matter of special concern in the present economic picture."

Thus, the record is clear. Since the 1966 Amendments reduced the overtime exemption for agricultural processing there has been a sharp decline in the amount of overtime worked by employees in the affected industries.

Claims of adverse effects on the industry have been greatly exaggerated. There is every reason to believe that the industry can make the necessary adjustment when these special exemptions are removed.

S. 2747 provides for a limited overtime exemption (14 weeks, 10 hours per day, and 48 hours per week) for certain employees engaged in activities related to the sale of tobacco. Such employees are currently covered by the section 7(c) exemption pursuant to determination by the Secretary.

Railroad and pipelines

The Fair Labor Standards Act currently exempts from the overtime provisions of the Act any employee of an employer subject to the provisions of Part I of the Interstate Commerce Act.

Part I of the Interstate Commerce Act pertains to railroad employees and employees of oil pipeline transportation companies.

The Committee bill would retain the overtime exemption for railroad employees but would remove the overtime exemption for employees of oil pipelines.

The Committee, in reviewing the historical basis for this exemption, found that there was no testimony with respect to oil pipeline transportation companies.

This industry was apparently exempted because it is covered along with railroads under part I of the Interstate Commerce Act and a case had been made for exempting railroad employees.

The Committee has concluded that there is no basis for continuing to provide an overtime exemption for employees of oil pipelines. Employees of gas pipelines are now covered by the overtime provisions of the FLSA. The action of the Committee eliminates a longtime competitive inequity between oil pipelines and gas pipelines.

Seafood processing

S. 2747 phases out the overtime exemption currently available in Section 13(b)(4) for "any employee employed in the processing, marketing, freezing, storing, packing for shipment, or distributing of any kind of fish, shellfish, or other aquatic forms of animal or vegetable life, or any product thereof," as follows:

1. In the first year after the effective date of the 1974 Amendments, the workweek exemption is 48 hours.

2. In the second year, the workweek exemption is 44 hours.

3. Effective on the beginning of the third year, the exemption is repealed.

The Fair Labor Standards Act as originally enacted provided an exemption under Section 13(a)(5) for:

Any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment or in propagating, processing, marketing, freezing, canning, curing, storing, or distributing the above products or byproducts thereof.

The 1949 amendments retained the complete exemption for fishing and processing, except canning. The minimum wage exemption for canning was eliminated, but the overtime exemption was retained under a new Section 13(b)(4).

The 1961 amendments removed the minimum wage exemption for employees employed in "onshore" operations, such as processing, marketing, distributing and other fish-handling activities. The overtime exemption for "onshore" operations was retained by adding such operations to the exemption already provided for the canning of seafood under Section 13(b)(4).

Removal of the overtime exemption for seafood canning and processing is part of the Committee's effort to achieve parity under the law for all workers to the maximum extent possible at this time. Just as in the case of agricultural processing, no case has been made for continuing the exemption.

Local transit

Currently, the overtime provisions of the Fair Labor Standards Act do not apply with respect to any driver, operator, or conductor employed by an employer engaged in the business of operating a street, suburban, or interurban electric railway, or local trolley or motorbus carrier, if the rates and services of such railway and carrier are subject to regulation by a State or local agency.

The Committee bill would eliminate this overtime exemption in three steps, except with respect to time spent in "charter activities" under specified conditions. The hours of employment will not include hours spent in charter activities if—(1) the employee's employment in such activities was pursuant to an agreement or understanding with the employer arrived at before engaging in such employment, and (2) if employment in such activities is not part of such employee's regular employment. These conditions are set so as to emphasize that the Committee intends that hours spent in "charter activities" as a part of the regular workday or workweek are to be included in the definition of "hours worked" under the Act.

The Committee has been persuaded that the transit industry has been adjusting to a shorter workweek for some time now. Collective bargaining agreements typically call for overtime after 40 hours a week—and in many cases after 8 hours a day. A large segment of the industry is now covered by such contracts. In addition, an overtime standard was applied to nonoperating employees of the industry by the 1966 amendments. The Committee bill requires that employees be paid time-and-one-half their regular rate of pay for all hours over 48 per week, beginning with the effective date; after 44 hours, 1 year later; and after 40 hours at the end of the second year and thereafter. This gradual approach ensures ease of adjustment.

It is noted that by virtue of the Committee's action on coverage of State and local government employment, together with its action on overtime pay in the local transit industry, operating employees of publicly and privately owned transit companies will be treated identically.

A question was raised concerning the applicability of the overtime provisions of the Act in the case of certain collective bargain-

ing agreements involving local transit in the New York area which provide for straight-time pay for certain off-duty hours. The Committee notes that section 7(e)(2) of the FLSA provides that "payments made for periods when no work is performed due to . . . failure of the employer to provide sufficient work . . . are not made as compensation for hours of employment." The Committee also notes that the Department of Labor's regulations concerning "Hours Worked" contain the following provision (29 C.F.R. 785.16 (a)):

"OFF DUTY"

"(a) *General.* Periods during which an employee is completely relieved from duty and which are long enough to enable him to use the time effectively for his own purposes are not hours worked. He is not completely relieved from duty and cannot use the time effectively for his own purposes unless he is definitely told in advance that he may leave the job and that he will not have to commence work until a definitely specified hour has arrived. Whether the time is long enough to enable him to use the time effectively for his own purposes depends upon all of the facts and circumstances of the case."

In 1972, by vote of 68–24 the Senate rejected an amendment to retain the overtime exemption for local transit.

Hotels, motels, and restaurants

S. 2747 eliminates the complete overtime exemption for employees employed by hotels, motels and restaurants and substitutes a limited overtime exemption as follows:

During the first year overtime compensation will be required for hours of employment in excess of 48 in a week and after the first year such compensation will be required for hours of employment in excess of 46 in a week. For maids and custodial employees of hotels and motels the phaseout is as follows:

1. 48 hours in the first year.
2. 46 hours in the second year.
3. 44 hours in the third year.
4. Repealed thereafter.

In setting an overtime standard for employees of hotels, motels and restaurants the Committee recognized that the length of workweeks have been declining in these activities. It is interesting to note that when minimum wage coverage was extended to these workers by the 1966 amendments, the Department of Labor reported to the Congress that there was a reduction in the prevalence of long workweeks in these industries, even though an overtime exemption was retained.

Tip allowance

S. 2747 modifies section 3(m) of the Fair Labor Standards Act by requiring employer explanation to employees of the tip credit provisions, and by requiring that all tips received be paid out to tipped employees.

Currently, the law provides that an employer may determine the amount of tips received by a "tipped employee" and may credit that amount against the applicable minimum wage, but amounts so credited may not exceed 50 percent of the minimum rate. Thus, a tip credit of up to $.80 an hour may currently be deducted from the minimum wage of a tipped employee. (A tipped employee is defined as an employee who customarily and regularly receives more than $20 a month in tips.)

The Committee re-examined the role of tips as wages and the concept of allowing tips to be counted as part of the minimum wage. The Committee reviewed the study of tips presented to the Congress by the Department of Labor in 1971 as well as provisions of State minimum wage laws which permit the counting of tips toward a minimum wage.

The Committee was impressed by the extent to which customer tips contributed to the earnings of some hotel and restaurant employees in March 1970 (the date of the Labor Department survey). After reviewing the estimates in this report, the Committee was persuaded that the tip allowance could not be reduced at this time, but that the tipped employee should have stronger protection to ensure the fair operation of this provision. The Committee bill, in this respect, is consistent with the will of the Senate as expressed in an 89–1 vote in 1972.

Labor Department Regulations define a tip as follows (Part 531—Wage Payments under the Fair Labor Standards Act of 1938):

A tip is a sum presented by a customer as a gift or gratuity in recognition of some service performed for him. It is to be distinguished from payment of a charge, if any, made for the service. Whether a tip is to be given, and its amount, are matters determined solely by the customer, and generally he has the right to determine who shall be the recipient of the gratuity.

Under these circumstances there is a serious legal question as to whether the employer should benefit from tips to the extent that employees are paid less than the basic minimum wage because the employees are able to supplement their wages by special services which bring them tips.

Setting aside for the present the ethical question involved in crediting tips toward the minimum wage, the Committee is concerned by reports that inflation has been deflating tips.

In view of these reports the Committee intends that the Department of Labor should take every precaution to insure that the employee does in fact receive tips amounting to 50 percent of the applicable minimum wage before crediting that amount against the minimum wage.

The bill amends Section 3(m) by deleting the following language pertaining to the computation of tip credits: "except that in the case of an employee who (either himself or acting through his representative) shows to the satisfaction of the Secretary that the actual amount of the tips received by him was less than the amount determined by the employer as the amount by which the wage paid him was deemed to be increased under this sentence." The deletion of this language is to make clear the original intent of Congress to place on the employer the burden of proving the amount of tips received by tipped employees and the amount of tip credit, if any, which such employer is entitled to claim as to tipped employees. See *Bingham* v. *Airport Limousine Service*, 314 F. Supp. 565 (W. D. Ark. 1970) in which the court refused to "speculate" as to sums the employees might have received in tips when the employer failed to present "any objective information" on the subject.

The tip credit provision of S. 2747 is designed to insure employer responsibility for proper computation of the tip allowance and to make clear that the employer is responsible for informing the tipped employee of how such employee's wage is calculated. Thus, the bill specifically requires that the employer must explain the tip provision of the Act to the employee and that all tips received by such employee must be retained by the employee. This latter provision is added to make clear the original Congressional intent that an employer could not use the tips of a "tipped employee" to satisfy more than 50 percent of the Act's applicable minimum wage. H. Rept. 871, 89th Cong., 1st Sess., pp. 9–10, 17–18, 31; 111 Cong. Rec. 21829, 21830; 112 Cong. Rec. 11362–11365, 20478, 22649. See *Melton* v. *Round Table Restaurants, Inc.*, 20 WH Cases 532, 67 CCH Lab. Cas. 32,630 (N.D. Ga.).

The tip provision applies on an individual employee basis, and the employer may thus claim the tip credit for some employees even though the employer does not meet the requirements of this section with respect to other employees. Nor is the requirement that the tipped employee retain such employee's own tips intended to discourage the practice of pooling, splitting or sharing tips with employees who customarily and regularly receive tips—*e.g.*, waiters, bellhops, waitresses, countermen, busboys, service bartenders, etc. On the other hand, the employer will lose the benefit of this exception if tipped employees are required to share their tips with employees who do not customarily and regularly receive tips—*e.g.*, janitors, dishwashers, chefs, laundry room attendants, etc. In establishments where the employee performs a variety of different jobs, the employee's status as one who "customarily and regularly receives tips" will be determined on the basis of the employee's activities over the entire workweek.

Nursing homes

The Fair Labor Standards Act currently provides a partial overtime exemption for employees of nursing homes. The Act provides an overtime exemption for any employee of a nursing home who receives compensation for employment at time and one-half the regular rate of pay for all hours in excess of 48 in a week.

S. 2747 replaces the limited overtime exemption for employees of nursing homes (overtime compensation required for hours of employment in excess of 48 in a week) by an overtime exemption (initiated by an agreement between the employer and his employees) which substitutes a 14-consecutive-day work period for the workweek and requires overtime compensation for employment over 8 hours in any workday and for over 80 hours in such work period.

According to a 1969 report of the Department of Labor there had been a marked decline in average hours per week of nonsupervisory employees of nursing homes between April 1965 and October 1967. The report indicates that the application of a 48-hour workweek standard to nursing homes on February 1, 1967 had very little effect as only a small proportion of the workers worked over 48 hours a week even before the Act was extended to the industry. In April 1968, less than 15 percent of all nursing home employees worked over 44 hours in a week.

Salesmen, partsmen, and mechanics

S. 2747 provides an amendment under which: the overtime exemption for partsmen and mechanics in nonmanufacturing establishments primarily engaged in selling trailers is repealed; the overtime exemption for partsmen and mechanics in nonmanufacturing establishments engaged in selling aircraft is repealed; the overtime exemption for salesmen in automobile, trailer, truck sales and aircraft establishments is retained; the overtime exemption for salesmen, partsmen, and mechanics in farm implement sales establishments is retained; the exemption for partsmen and mechanics in automobile and truck sales establishments is retained and an overtime exemption is provided for salesmen engaged in selling boats.

The Committee was persuaded that the application of an overtime standard to partsmen and mechanics in trailer dealerships, and to the presently exempt employees in aircraft dealerships would be likely to generate additional jobs, and to promote the training of workers to fill the jobs. If the industry continues to expand service hours, as recent trends indicate, the overtime penalty should provide considerable stimulus to the creation of new jobs at a time when our economy is experiencing high unemployment rates and the training necessary for meaningful employment in this industry is or should be readily available.

Cotton ginning and sugar processing

S. 2747 repeals the year-round overtime exemption for cotton ginning and sugar proc-

essing employees in Section 13(b)(15) of the Fair Labor Standards Act, but retains the exemption for employees engaged in processing maple sap into maple syrup or sugar.

The amendment to phase down the overtime exemption for cotton ginning and sugar processing employees is as follows:

1. Effective on the effective date, the workweek exemption is as follows: 72 hours each week for 6 weeks of the year; 64 hours each week for 4 weeks of the year; 54 hours each week for 2 weeks of the year; 48 hours each week for the balance of the year.

2. In 1975, the workweek exemption is as follows: 66 hours each week for 6 weeks of the year; 60 hours each week for 4 weeks of the year; 50 hours each week for 2 weeks of the year; 46 hours each week for 2 weeks of the year; 44 hours each week for the balance of the year.

3. In 1976, the workweek exemption is as follows: 60 hours each week for 6 weeks of the year; 56 hours each week for 4 weeks of the year; 48 hours each week for 2 weeks of the year; 44 hours each week for 2 weeks of the year; 40 hours each week for the balance of the year.

The workweek exemptions are applicable during the actual season within a period of twelve consecutive months as opposed to the calendar year and are not limited to a period of consecutive weeks.

In addition, the cotton processing and sugar processing exemptions under section 7 of the law are retained but limited to 48 hours during the appropriate weeks. Furthermore, it is provided that an employer who receives an exemption under this subsection will not be eligible for other overtime exemptions under section 13(b) (24) or (25) or section 7.

The 1970 Report of the Department of Labor on the Agricultural Handling and Processing Industries includes the recommendation of the Secretary of Labor that "consideration should be given to the phasing out of the overtime exemptions currently available to the agricultural handling and processing industries under Section 7(c) and 7(d) of the Fair Labor Standards Act . . . Although focusing primarily on Sections 7(c) and 7(d) of the Act, the survey data also indicate that there is no sound basis for the continuation of the year-round exemptions available under Sections 13(b) . . . (15) of the Act . . ."

Few industries are as highly subsidized and so greatly protected as the sugar industry. The Federal Government makes direct payments for sugar production totalling nearly $100 million a year. It sets and enforces production quotas in the U.S. and specifically restricts foreign imports of sugar for an additional benefit of about $400 million annually to the industry.

The industry is also protected by various Federal laws against crop damage resulting from natural causes.

Many of these employees work in shifts of 12 hours a day for six or seven days a week during the sugar processing season (October 15 to January 15). The law does not require that they be paid overtime premium pay although their counterparts in non-subsidized industries are paid time and one-half their regular rates of pay for all hours over 40 in a week.

Section 13(b)(15) of the Act also provides a year-round unlimited exemption from the maximum hours provisions for cotton ginning. Under section 13(b)(15) an employer is eligible for this exemption when: (1) employees are actually engaged in the ginning of cotton; (2) the cotton must be ginned "for market"; and (3) the place of employment is located in a county where cotton is grown in commercial quantities.

In addition, there is a limited overtime exemption under section 7(c) during the period or periods when cotton is being received for ginning. When applicable, the exemption under section 7(c) may be claimed for all employees, including office workers, exclusively engaged in the operations specified in the industry determination. A survey, conducted in 1967 by the U.S. Department of Agriculture, disclosed 3,753 cotton gins that employed 49,500 nonsupervisory employees during the peak work-week.

It is not uncommon in the cotton ginning industry to have employees working in excess of an 80 hour work-week during the peak season. Sixty-hour work-weeks exist with regular frequency. The exemption under 13(b)(15) enables employers to work their employees often nearly double the normal work-week, without having to pay premium wages. Modification of this exemption would start cotton ginning employees on the road to overtime pay parity with the mainstream of the American labor force.

In the past the industry has made little use of multiple shift operations with only one in four using more than one shift in 1970. Since the majority of the work force consists of "moonlighting" field workers, potential employees are in plentiful supply during the peak season. By using multi-shifts, cotton ginners could reduce the number of overtime hours, while at the same time alleviating the chronic farm unemployment problem (7.5% versus the national average of 4.9% in 1970).

Catering and food service employees

S. 2747 phases out the complete overtime exemption for employees of retail and service establishments who are employed primarily in connection with the preparation or offering of food or beverages either on the premises or by such services as catering, banquet, box lunch, or curb or counter service, to the public, to employees, or to members or guests of members of clubs.

S. 2747 requires that catering and food service employees be paid time and one half their regular rate of pay for hours over 48 per week on the effective date, for hours over 44 after 1 year, and for hours over 40 after the second year.

The elimination of the special exemption for food service employees in retail service establishments eliminates a disparity in work standards for employees of the same establishment. For example, food service employees in covered retail establishments are now exempt from the overtime provisions of the Act while retail clerks, in the same establishments, are covered by both the minimum wage and overtime standard. This has been a major source of friction.

It is expected that the gradual phasing out of the overtime exemption will eliminate excessively long hours in food service and catering activities and thus generate additional jobs. Also treatment of food service employees in this manner permits a similar phasing out of the overtime exemptions for bowling establishments, an exemption predicated in large part upon the food service aspects of such establishments.

Telegraphic message operations

S. 2747 repeals the minimum wage and phases out the overtime exemption for persons engaged in handling telegraph messages for the public under an agency or contract arrangement with a telegraph company, if they are so engaged in retail or service establishments exempt under section 13(a)(2) and if the revenues for such messages are less than $500 a month. The amendment to phase out the overtime exemption is as follows:

1. 48 hours in the first year after the effective date.

2. 44 hours in the second year.

3. Repealed thereafter.

Bowling establishments

The Fair Labor Standards Act currently exempts from the overtime provisions of the Act any employee of a bowling establishment if such employee receives compensation for hours in excess of 48 in a workweek at time and one-half the employee's regular rate of pay.

The Committee bill would reduce the straight-time workweek to 44 hours one year after the effective date and to 40 hours one year later.

The Committee notes that bowling fees have advanced by 18 percent since 1967. At the same time, pinsetting machine technology has improved, and automatic pinsetters have replaced hand pinsetters throughout the industry. Overtime coverage is easily compatible with the operative characteristics of the industry. The use of automatic pinsetters has eliminated problems which had previously resulted from daily and hourly fluctuations in patronage.

House parents for orphans

S. 2747 provides a new overtime exemption for any employee who is employed with such employee's spouse by a private nonprofit educational institution to serve as the parents of children—

A. Who are orphans or one of whose natural parents is deceased, and

B. Who are enrolled in such institution and reside in residential facilities of the institution, which such children are in residence at such institution, if such employee and such employee's spouse reside in such facilities, receive without cost, board and lodging from such institution, and are together compensated, on a cash basis at an annual rate of not less than $10,000.

The Committee, in proposing this amendment, is primarily interested in insuring that couples who serve as house parents for orphans in educational institutions are assured sufficient flexibility in work standards to protect the interest of the orphans during the periods when such orphans reside in such institutions.

The Milton Hershey School in Hershey, Pennsylvania is one such institution. The Hershey school is a residential vocational school for orphan boys. The students live in 103 separate cottages of 10 to 15 boys each. The Committee has been informed that a married couple lives in each cottage, serving as house parents. The Committee felt that imposition of overtime coverage in this very special employment situation would result in an especially difficult financial and record-keeping situation for such institutions.

The Committee considered, but did not approve, a minimum wage as well as an overtime exemption for such employees. Thus these house parents will continue to be subject to the minimum wage provisions of the Act. An employee and such employee's spouse who serve as house parents of orphans in a nonprofit educational institution, who are paid not less than $10,000 a year in cash wages, and who receive without cost, board and lodging from such institutions would likely be paid in compliance with the minimum wage requirements of the Act.

The Committee recognizes that the Labor Department has issued special rules for calculating "hours worked" for employees residing on employer's premises, including such house parents who have duties which could occur at any time.

It is the Committee's understanding that as to hours worked by such resident employees, the Labor Department's regulations permit a reasonable agreement between the parties which takes into consideration all the pertinent facts surrounding such employment.

Mr. WILLIAMS. Mr. President, the Fair Labor Standards Act demonstrates a congressional awareness of the special problems confronting students who need and want to work while attending school on a full-time basis.

There were, and there continues to be, special provisions for employing learners,

apprentices, student learners and student workers at subminimum rates.

Section 7 of S. 2747 expands the full-time student certificate program currently applicable to retail and service industries and to agriculture to apply to educational institutions. The bill retains the certification procedure, as it now exists, to insure that students will not be used to displace other workers.

The committee rejected a proposal that the Fair Labor Standards Act be amended by loosening the special student certification program and adding a blanket subminimum wage for young people below the age of 18 and for full-time students up to the age of 21.

A similar proposal was rejected by the Senate last year by a vote of 54 to 36.

The committee's rejection of this special subminimum rate was based on the conviction that this would violate the basic objective of the act and that such a standard would contribute to, rather than ease, the critical problem of unemployment because it would encourage the displacement of older workers.

We were convinced that a subminimum wage for youth would violate the basic concept of the act which represents an "economic charter" for the lowest paid workers in the United States.

Mr. WILLIAMS. Mr. President, to achieve its objective, the minimum wage must be an irreducible minimum below which wages for workers will not be allowed to fall.

S. 2747 amends the Age Discrimination in Employment Act of 1967 (Public Law 90–202) to include within the scope of coverage, Federal, State, and local government employees.

The Senate agreed to this extension last year.

Section 8 of the committee bill amends section 16(c) to authorize the Secretary of Labor not only to bring suit to recover unpaid minimum wages or overtime compensation, a right which he currently has, but also to sue for an equal amount of liquidated damages without requiring a written request from an employee.

The addition of liquidated damages is a necessary penalty to assure compliance with the Fair Labor Standards Act.

Currently, all that is required of the employer is that he pay the wages that should have been paid in the first place, without any penalty for violating the act. This is not a deterrent, certainly, to future violations.

It almost encourages employers to see what they might be able to get away with, if they were inclined to be so motivated. But a deterrent is necessary, and that is provided for in this bill.

This section would also allow the Secretary of Labor to bring suit even though the suit might involve issues of law that have not been finally settled by the courts.

At the present time, many of the protections that are written into the act are not being extended to workers because of the current restrictions on the Secretary in bringing suits in areas that have not been finally settled by the courts.

The act places the primary responsibility for the enforcement of the act on the Secretary of Labor; he should have the right to bring suits directly in order to resolve issues of law.

The committee also acted on an amendment to section 16(b) of the act to make clear the right of individuals employed by State and local governments and political subdivisions to bring private actions to enforce their rights and recover back wages under this act.

This amendment is necessitated by the decision of the U.S. Supreme Court in employees of the Department of Public Health and Welfare of Nursing against Department of Health and Welfare of Nursing, decided in April 1973, which held that Congress in extending coverage under the 1966 amendments to school and hospital employees in State and local governments did not explicitly provide the individual a right of action in the Federal courts although the Secretary of Labor was authorized to bring such suits.

In addition, the committee included an amendment to the Portal to Portal Act of 1947 which would preserve existing actions brought by private individuals which would otherwise be barred by the statute of limitations as a result of the April 1973 decision which I have mentioned.

Both of these amendments were included at the request and recommendation of the administration and the Secretary of Labor.

I would add that our committee has been concerned for some time that the Employment Standards Administration of the Department of Labor, which now has responsibility for administering the Fair Labor Standards Act, appears to be considering reordering its priorities in such a way as to downgrade enforcement of this act. The Department must maintain a vigorous enforcement program under this act.

Coverage should be interpreted broadly; and every effort should be made to insure that those employees who have been the victims of violations of this act are made whole.

Improving the Fair Labor Standards Act is a significant achievement only if it is followed by a vigorous enforcement effort designed to bring covered employers into compliance with the new standards as quickly as possible.

Mr. President, another matter of particular concern to the committee, has been enforcement of the Fair Labor Standards Act with respect to the employment of handicapped individuals, and the protection of the rights of such individuals who are institutionalized. Under the Rehabilitation Act of 1973 (Public Law 93–102), the committee ordered an original and full study into employment and wage practices in sheltered workshops and work activity centers; in addition, we have begun our own investigation into enforcement of the Fair Labor Standards Act in institutional settings.

The committee points out that on December 7, 1973, the U.S. District Court for the District of Columbia in a class action involving enforcement of FLSA for patient workers in public and private non-Federal homes, hospitals, and institutions ruled that the Department of Labor has a duty to implement enforcement efforts for such patient-workers and ordered the department within 120 days to notify the institutions of their statutory responsibility to compensate all mentally ill and mentally retarded patient-workers, and to notify all such workers of their rights under the act.

Furthermore, the court ordered the Department to contact all institutions within 1 year to establish and implement the necessary procedures, including special certifications as provided under section 14 of FLSA, so that patient workers will be paid the wages due them. The court's memorandum filed previously on November 14, 1973, stated that:

> Economic reality is the test of employment and the reality is that many of the patient-workers perform work for which they are in no way handicapped and from which the institution derives full economic benefit. So long as the institution derives any consequential economic benefit the economic reality test would indicate an employment relationship rather than mere therapeutic exercise. To hold otherwise would be to make therapy the sole justification for thousands of positions as dishwashers, kitchen helpers, messengers and the like.

Citing section 14 provisions providing for payment of less than the minimum wage for less productive handicapped workers by certification of the Secretary of Labor, and the fact that there is no specific exemption for patient-workers under the act, the court found that mentally ill and mentally retarded patient-workers are covered by the act. It went on to point out that time consuming and costly administrative resources to enforce the provisions for such a class of individuals was no excuse for failing to implement the statutory mandate.

The committee agrees with the court, and takes note of the enforcement procedures which the Department has been ordered to undertake. The committee intends to follow the progress of the Labor Department in respect to these court-ordered activities under FLSA, and if necessary it shall meet with the Department in the near future to oversee these activities.

I ask unanimous consent that the memorandum and the declaratory judgment and injunction order in Souder against Brennan be printed in the RECORD at this point.

There being no objection, the memorandum, declaratory judgment, and injunction order were ordered to be printed in the RECORD, as follows:

[U.S. District Court for the District of Columbia, Civil Action No. 482–73]

NELSON EUGENE SOUDER, ET AL. VERSUS PETER J. BRENNAN, SECRETARY OF LABOR, ET AL.

MEMORANDUM

This is an action for declaratory and injunctive relief presently before the Court on Plaintiffs' Motion for Summary Judgment.[1] Plaintiffs are three resident patient-workers at various state hospitals for the mentally ill or mentally retarded,[2] the American Association on Mental Deficiency,[3] and the National Association for Mental Health.[4] The American Federation of State, County and Municipal Employees, AFL–CIO (AFSCME) has joined as Intervenor-Plaintiff.[5] Defendants are the Secretary of the United States

Footnotes at end of article.

Department of Labor and his subordinates charged with implementing and enforcing the Fair Labor Standards Act of 1938 (FLSA), as amended, 29 U.S.C. § 201 et seq. Plaintiffs seek a determination that the minimum wage and overtime compensation provisions of the Act, 29 U.S.C. §§ 206–207 apply to patient-workers of non-Federal hospitals, homes, and institutions for the mentally retarded and mentally-ill (hereafter collectively referred to as the mentally ill). Plaintiffs further seek to compel the defendant Secretary of Labor and his subordinates to undertake enforcement of the said minimum wage and overtime compensation provisions.

It is undisputed that the Department of Labor has a declared policy of non-enforcement of the minimum wage and overtime provisions with regard to patient-workers at non-Federal institutions for the mentally-ill.[6] It is also clear to the Court that if the Fair Labor Standards Act does apply to such patient-workers then the policy of non-enforcement is a violation of the Secretary's duty to enforce the law.[7] Accordingly, the issue for resolution here is the applicability of the Fair Labor Standards Act to such patient-workers. This is a legal issue properly disposed of here by summary judgment.

The 1966 Amendments[8] to the Fair Labor Standards Act of 1938, extended coverage under the minimum wage and overtime provisions of the Act for the first time to, inter alia, employees of public and private non-Federal hospitals and institutions for the residential care of the mentally ill. It is clear that these amendments were intended to cover the regular professional and non-professional staff of such institutions.[9] Neither the statutory language nor the legislative history of the 1966 amendments, however, makes any direct reference to the status of patient-workers in such institutions. This fact is a matter of major concern to the Court for there are significant questions of policy and practicality underlying extension of the Act to patient-workers.[10] Nevertheless, extensive review has convinced the Court that the Act does so apply and that Plaintiffs are entitled to summary judgment.

A basic cannon of statutory construction is that when statutory language is clear on its face and fairly susceptible of but * * * construction, that construction must be given to it.[11] Even where there is legislative history in point, albeit ambiguous or contradictory, it is unnecessary to refer to it and improper to allow such history to override the plain meaning of the statutory language.[12] Most certainly, then, the absence of any legislative history in point should not outweigh the words of the statute.[13]

The words of the statute here in question say simply that "employ" means "to suffer or permit to work",[14] that "employer" specifically includes "a hospital, institution, or school"[15] for the residential care of the mentally ill.[16] The terms of the Fair Labor Standards Act have traditionally been broadly construed[17] and the Congress is not only aware of but has approved of such broad construction.[18] Economic reality is the test of employment[19] and the reality is that many of the patient-workers perform work for which they are in no way handicapped and from which the institution derives full economic benefit.[20] So long as the institution derives any consequential economic benefit the economic reality test would indicate an employment relationship rather than mere therapeutic exercise. To hold otherwise would be to make therapy the sole justification for thousands of positions as dishwashers, kitchen helpers, messengers and the like.[21]

Further support for this approach can be found in the fact that the Act contains specific exemption provisions,[22] yet Congress did not see fit to specifically exclude patient-workers from coverage. The specific exemptions granted are numerous and detailed, indicating clearly that Congress is quite capable of specifically excluding from coverage some of those who might otherwise be covered by the general provisions. Congress did not exclude patient-workers from coverage and, therefore, the Court cannot do so.

A second well-established principle of statutory construction is that the interpretation of the agency charged with administering the statute is entitled to great weight.[23] This approach also supports extension of coverage, for the officially stated policy of the Department of Labor provides that patient-workers may be considered employees under the statute.[24] This constitutes an official administrative interpretation, still "not rescinded", that patient-workers as a class were included in the terms of the 1966 amendments extending coverage.[25] That the policy is not enforced has been ascribed throughout the development of the present case solely to administrative difficulties and "unresolved problems" in the mechanics of enforcement.[26] The Court has accorded substantial weight to the fact that the initial and consistent interpretation of those most closely concerned with administration and enforcement of the Act has been to recognize its applicability to patient-workers.

Lastly, there is available in Section 14 of the Act, 29 U.S.C. § 214, a procedure apparently well-suited for adaptation to enforcement activities applying the Act to the mentally ill. Basically, Section 14 establishes a procedure whereby less-than-normally productive handicapped (physically or mentally) workers can be certified as such by the Secretary of Labor and paid an appropriate competitive rate for their services. The legislative history of these provisions supports the proposition that productive labor of handicapped persons was generally intended by Congress to be covered by the Fair Labor Standards Act where the statutory prerequisites for coverage are otherwise met.[27] Initial application of the Section 14 procedures to patient-workers throughout the nation may consume some time and substantial administrative resources. Yet if that is a consequence of Congress action in extending coverage, administrative burden is no excuse for failure to implement the statutory mandate.

Plaintiffs have moved for certification of the case as a class action pursuant to Rule 23, Federal Rules of Civil Procedure. The Court finds that the prerequisites of Rule 23(a) have been met and that Defendants have acted or refused to act on grounds generally applicable to the class, Rule 23(b)(2), and the motion to certify the class will therefore be granted.[28] The class will be defined as follows: All patient-workers in non-Federal institutions for the residential care of the mentally ill and mentally retarded who meet the statutory definition of employee, 29 U.S.C. § 203(d)(e)(g).[29]

The Secretary will be ordered to implement reasonable enforcement efforts applying the minimum wage and overtime compensation provisions of the Fair Labor Standards Act to patient-workers at non-Federal institutions for the residential care of the mentally ill.

Counsel for the Plaintiffs are to submit appropriate Orders within ten (10) days of date.

AUBREY E. ROBINSON, Jr.,
Judge.

FOOTNOTES

[1] Defendants' Motion to Dismiss or, in the alternative, for Summary Judgment, was denied July 27, 1973. Defendants had contended that enforcement of the Fair Labor Standards Act is a matter entirely within the discretion of the Secretary of Labor and therefore not subject to judicial review. This position was rejected on the authority of Adams v. Richardson, 480 F. 2d 1159 (D.C. Cir. 1973) and Office Employees International Union v. N.L.R.B., 353 U.S. 313 (1957).

[2] Plaintiff Nelson Eugene Souder was, at the date this lawsuit was filed, a resident-worker at Orient State Institute, Orient, Ohio. Mr. Souder was released from Orient State Institute on convalescent leave status on March 24, 1973. Mr. Souder is 47 years old and mentally retarded. He has resided at Orient State Institute since 1940.

Plaintiff Joseph Lagnone is a 32 year old mentally-retarded resident-worker at Pennhurst State School and Hospital, Spring City, Pennsylvania, where he has resided since 1955.

Plaintiff Edwin Leedy is a 62 year old mentally ill resident-worker at Haverford State Hospital, Haverford, Pennsylvania, where he has been working since April 1966.

[3] The American Association on Mental Deficiency is a not-for-profit Pennsylvania Corporation headquartered in Washington, D.C. a national membership organization which includes institutional residents, parents and guardians of institutional residents, and over 9000 mental retardation professional workers.

[4] The National Association for Mental Health, is a not-for-profit New York Corporation, headquartered in Arlington, Virginia, a national citizens organization for the prevention of mental illness and promotion of mental health.

[5] AFSCME is an unincorporated voluntary association and labor union of more than 600,000 members which represents more than 125,000 workers in the health care field. AFSCME joins herein on behalf of its members employed in non-Federal institutions and as an organization concerned with improving health services.

[6] A Department of Labor policy statement, Release G–874 (Appendix A), was promulgated November 15, 1968, interpreting the Act as covering patient-workers in certain circumstances. The Department states that policy "has not been rescinded." (Answer #24, Defendants' Answers and Objections to Plaintiffs' Interrogatories, June 30, 1973). Nevertheless, "the Department of Labor, subsequent to the issuance of G–874, determined that it would *take no enforcement action* with respect to resident-workers because of the number of unresolved problems involved." (Id.) (emphasis added). See Department of Labor, Wage and Hour Division, Procedural Instruction, October 13, 1969 (Appendix B.)

[7] Adams v. Richardson, 480 F. 2d 1159 (D.C. Cir. 1973). Office Employees International Union v. N.L.R.B., 353 U.S. 313 (1957), Wisconsin v. F.P.C., 373 U.S. 294 (1963), Commonwealth of Pennsylvania v. Lynn—F. Supp. — (D.D.C., July 23, 1973), Pealo v. F.H.A., 361 F. Supp. 1320 (D.D.C. 1973), 29 U.S.C. §§ 202, 211, 212 and 216 and Section 602 of P.L. 89–601 are the statutory sources of the authority and duty of the Defendants to enforce the Fair Labor Standards Act, as amended. Compare, 42 U.S.C. § 2000d–1, the provision involved in Adams v. Richardson, supra. It should be noted that as state employees the individual Plaintiffs herein have no recourse to private lawsuits to enforce their rights under the Act, but must rely on Defendants for enforcement. See Employees of the Department of Public Health and Welfare of Missouri, et al. v. Department of Health and Welfare of Missouri, et al. 411 U.S. 279 (1973).

[8] P.L. 89–601, § 102, September 23, 1966, 80 Stat. 830–832. (Effective Feb. 1, 1967). See 29 U.S.C. § 203(d)(r) and (s).

[9] S. Rep. No. 1487, 89th Cong. 2d Sess. 1 (1966) at 8, 22–23; H. Rep. No. 1366, 89th Cong. 2d Sess. (1966) at 3, 11–12, 15, 16–17, and 18. See Employees of the Department of Public Health and Welfare of Missouri, et al. v. Department of Public Health and Welfare of Missouri, et al. 411 U.S. 279, 283 (1973).

[10] The questions of policy and practicality are intertwined, the most obvious being questions as to whether extension of cover-

age will in the long run be in the best interests of the patient-workers and the public. Significantly increased costs for the operation of institutions may result, but these, on the other hand, may be offset by increased or newly imposed charges on patients for their care. The possibilities and implications of such developments are at least areas in which the Court would have expected some legislative inquiry.

[11] Sea-Land Service, Inc. v. Federal Maritime Commission, 404 F. 2d 824 (D.C. Cir. 1968), District of Columbia National Bank v. District of Columbia, 348 F. 2d 804 (D.C. Cir. 1965), Arkansas Valley Industries, Inc. v. Freeman, 415 F. 2d 713 (8th Cir. 1969), United States v. New England Coal and Coke Co., 318 F. 2d 138 (1st Cir. 1963), Community Blood Bank of Kansas City Area, Inc. v. F.T.C., 405 F. 2d 1011 (8th Cir. 1969).

[12] Hamilton v. Rathbone, 175 U.S. 414, 421 (1899), United States v. First National Bank, 234 U.S. 245, 258 (1914), Osaka Shosen Kaisha Line v. United States, 300 U.S. 98, 101 (1937), Ex Parte Collett, 337 U.S. 55, 61 (1949), United States v. Oregon, 366 U.S. 643, 648 (1961), United States v. Dickerson, 310 U.S. 554, 562 (1940), N.L.R.B. v. Plasterers Union Local No. 79, 404 U.S. 116, 129 (1971).

[13] Eastern Air Lines, Inc. v. C.A.B., 354 F. 2d 507, 511 (D.C. Cir. 1965): "[I]t is no bar to interpreting a statute as applicable that the question which is raised on the statute never occurred to the legislature."

See Unexcelled Chemical Corp. v. United States, 345 U.S. 59, 64 (1953); National Association of Motor Bus Owners v. Brinegar, — F. 2d — (D.C. Cir. July 26, 1973) (Slip Opinion at 19).

[14] 29 U.S.C. § 203(g).

[15] 29 U.S.C. § 203(d).

[16] 29 U.S.C. § 203(r).

[17] See Gulf King Shrimp Co. v. Wirtz, 407 F.2d 508 (6th. Cir. 1969); Wirtz v. Allen Green Associates, Inc. 379 F. 2d 198 (6th Cir. 1966).

[18] See H. Rep. No. 1366, 89th Cong. 2d Sess. (1965) at 10.

[19] Goldberg v. Whitaker House Cooperative, Inc. 366 U.S. 28, 33 (1961).

[20] The Department of Labor does not take the position that all resident-workers at institutions are handicapped workers. Only where the patient's earning or productive capacity is impaired is the resident-worker considered handicapped and the institution allowed to reduce his compensation accordingly under Section 14 of the Act, 29 U.S.C. § 214. Answers Nos. 30, 33, Defendants Answers and Objections to Plaintiffs Interrogatories. June 20, 1973. This point is emphasized by the intervention of Plaintiff AFSCME on behalf of its members who perform non-professional staff work at various institutions. AFSCME contends that the use of unpaid and underpaid patient-workers constitutes the kind of unfair competition and lowering of standards that the Fair Labor Standards Act was designed to prevent.

[21] The fallacy of the argument that the work of patient-worker is therapeutic can be seen in extension to its logical extreme, for the work of most people, inside and out of institutions, is therapeutic in the sense that it provides a sense of accomplishment, something to occupy the time, and a means to earn one's way, but that can hardly mean that employers should pay workers less for what they produce for them.

[22] 29 U.S.C. § 203.

[23] Udall v. Tallman, 380 U.S. 1 (1965), Power Reactor Development Co. v. International Union of Elec., Radio and Mach. Workers, 367 U.S. 396 (1961), D.C. Federation of Civil Associations v. Volpe, 434 F. 2d 436 (D.C. Cir. 1970), National Automatic Laundry and Cleaning Council v. Shultz, 443 F. 2d 689 (D.C. Cir. 1971).

[24] Release G-874 (Appendix A.) See footnote 6, supra.

[25] The policy statement, Release G-874, does not provide that all patient-workers are to be considered statutory employees, but would weigh the nature of the work performed by each worker and its possible therapeutic value. Thus, the Release recognizes that coverage under the Act is available for patient-workers and proceeds to the next question, whether an individual patient-worker meets the criterion of performing work of economic benefit to the institution sufficient to be considered an employee under the economic reality test. Thus Release G-874 seems at least a reasonable first-step toward defining an enforcement approach applying the statute to patient-workers. That administrative difficulties developed, however, is no excuse for totally abandoning any enforcement effort. See note 7, supra.

[26] See note 6, supra. Only in a supplementary memoranda of points and authorities on the question of coverage and the legislative history of the 1966 amendments, specifically requested by the Court, have the Defendants even hinted a dispute on the question of coverage. This of course is an after-the-fact legal argument rather than a contemporaneous administrative interpretation. Defendants nowhere in their Court pleadings expressly concede the question of coverage (but see Answer to Interrogatory #24, note 6, supra), but the issue is raised primarily at the instance of the Court because of its importance in the case.

[27] See 112 Cong. Rec. 20818-19 (1966), S. Rep. No. 1487, 89th Cong. 2d Sess. (1966), at 23-24; H.R. Conference Rep. No. 2004, 89th Cong., 2d. at 13-15, 20-22 (1966).

[28] See Bermudez v. United States Department of Agriculture, — F. 2d — (No. 72-2138, D.C. Cir. Oct. 10, 1973), Slip Opinion at 12-14.

[29] Defendants have opposed certification as a class action primarily on the grounds of difficulty in defining the class or identifying its members. Yet the statutory criteria for definition of an "employee" relationship are long-standing and have left a chain of well-known precedent applying the law to the facts of individual situations. See notes 17-21 and accompanying text, supra. Such application, indeed, is peculiarly the domain of Defendants herein. Defendants have not otherwise disputed the existence of a class, nor the propriety of injunctive relief. Thus the argument of administrative difficulty recurs. Yet in the context of this case the Court does not find this justification for denial of a class action once the criteria of Rule 23 are met. If unforseen or insoluble difficulties arise, any party may bring these to the attention of the Court in seeking clarification of the definition of the class. While Defendants correctly point out that the label "patient-worker" need not be controlling where a patient in fact does work that is solely therapeutic, the economic reality test is available to determine whether the institution receives any consequential economic benefit from the patient's services. That test would not seem overly difficult in its application.

APPENDIX A CA 482-73

[U.S. Department of Labor, Wage and Hour and Public Contracts Divisions]

APPLICABILITY OF THE FAIR LABOR STANDARDS TO WORK PROGRAMS FOR PATIENTS OF HOSPITALS AND INSTITUTIONS OTHER THAN FEDERAL

Coverage

The 1966 Amendments to the Fair Labor Standards Act, effective February 1, 1967, provided for application of the act to hospitals and institutions primarily engaged in the care of the sick, the aged, the mentally ill or defective who reside on the premises of such hospitals or institutions (regardless of whether or not they are public or private or operated for profit or not for profit). Workshops and other types of work programs operated by hospitals and institutions are considered to be within the coverage of the act.

Employment of patients in work programs

Pending authoritative rulings of the courts, the Department of Labor will not assert that initial participation of patients in a work program constitutes an employment relationship if the following conditions are met.

1. The tasks performed by the patient are part of a program of activities which have been determined, as a matter of medical judgment, to have therapeutic or rehabilitative value in the treatment of the patient, and

2. The patient does not displace a regular employee or impair the employment opportunities of others by performing work which would otherwise be performed by regular employees who would be employed by the hospital or institution or an independent contractor, including, for example, employees of a contractor operating the food service facilities.

After placement in the workshop, on a job in the hospital or institution, or in another establishment, an employment relationship will ordinarily develop and the provisions of the Fair Labor Standards Act will become applicable. This shift to an employment relationship may come shortly after placement or it may occur later. As a general guide, work for a particular employer, whether the hospital, institution, or another establishment, after 3 months will be assumed by the Wage and Hour and Public Contracts Divisions to be part of an employment relationship unless the employer can show the contrary.

Where placements are made with successive employers for short periods of time, it is not expected in the ordinary course that such placements will be very long with a particular employer. As a general guide, work for successive employers for short periods of time after a total of 6 months will be answered by the Wage and Hour and Public Contracts Divisions to be part of an employment relationship unless it can be shown to the contrary. When the employment relationship has developed, the applicable statutory minimum must be paid except where special minimum wages below the statutory minimums are authorized by the Wage and Hour and Public Contracts Divisions.

Statutory Minimum Wages

The minimum wage is $1.60 an hour for employment subject to the act before the 1966 amendments. The minimum wage for employment made subject to the act by the 1966 amendments (which includes work in covered hospitals and institutions) is now $1.15 an hour, advancing to $1.30 on February 1, 1969, and except for employment in agriculture advancing to $1.45 on February 1, 1970, and to $1.60 on February 1, 1971.

Certificates Authorizing Rates Below the Statutory Minimum

The Wage and Hour and Public Contracts Divisions' regional and district offices may issue certificates authorizing special minimum wages below the statutory minimum under 29 CFR Part 524 and Part 525 for employment of handicapped workers in competitively employment and in sheltered workshops, respectively. Application forms and instructions for completion of such forms may be obtained from the regional or district office of the Wage and Hour and Public Contracts Divisions which serves the area in which the establishment or institution is located.

APPENDIX B

Defendants' Answer to Interrogatory No. 24 reads as follows: (filed herein June 20, 1973)

The policy expressed in Release G–874 has not been rescinded. But the Department of Labor, subsequent to the issuance of G–874, determined that it would take no enforcement action with respect to resident workers because of the number of unresolved problems involved. This determination was communicated to the regional offices of the Department's Wage and Hour Division by a procedural instruction dated October 13, 1969, which stated:

"Patients or inmates who may be employees. No action shall be taken to affirm or deny an employment relationship for patients or inmates of hospitals and related institutions who are in work programs of such institutions. Releases G–874 and G–876 provide general guidance as to determination of an employment relationship in these situations; however, experience has indicated a need for more precise guidance in such cases. Questions have also been raised about the application of section 3(m) to such persons. This entire matter is under review in the NO. Where this issue is encountered in an investigation, BW shall not be computed or reflected on Form WH–51. The facts shall be obtained and included in the investigation report. The establishment employer shall be advised that no decision has been made with respect to such cases and that he will be contacted later. All other aspects of the case shall be handled in accordance with regular procedures, including BW. When the investigation has been brought to a conclusion and closed, the report shall be sent to the AA for OCE to assist in working out an acceptable solution to the problem."

Inquiries or questions, either oral or written, received from institutions, residents, employees, or other interested parties after October 13, 1969, were answered by stating that the Department currently was taking no enforcement action under FLSA with respect to working patients. Generally the person making the inquiry was informed of the right of an employee to bring his own independent action under section 16(b) of the FLSA to recover back wages.

[In the U.S. District Court for the District of Columbia, Civil Action No. 482–73]

NELSON EUGENE SOUDER, ET AL., PLAINTIFFS, V. PETER J. BRENNAN, ET AL., DEFENDANTS

DECLARATORY JUDGMENT AND INJUNCTION ORDER

This cause came before this Court upon plaintiffs' motion for summary judgment and defendants' combined motion to dismiss and for summary judgment. Upon the entire record before this Court including the pleadings, interrogatories and affidavits, and upon the Memorandum Opinion of this Court dated November 14, 1973, it is hereby ORDERED that plaintiffs' motion for summary judgment is granted, and defendants' motions are denied. The Court having ruled that the Secretary of Labor has a duty to implement reasonable enforcement efforts applying the minimum wage and overtime compensation provisions of the Fair Labor Standards Act to patient-workers at non-Federal institutions for the residential care of the mentally ill and or mentally retarded, it is further ordered, adjudged and declared:

A. Notification to the class.—That the Secretary of Labor, his officers, agents, servants, and all persons acting or claiming to act in his behalf and interest [hereinafter, the "Secretary"], undertake the following notification activities:

(1) Within 120 days from the date of this Order, notify the Superintendent of each non-Federal facility for the residential care of the mentally ill and/or mentally retarded, and the chief executive officer or officers of the supervising state agency for mental health and/or mental retardation, that they have the same statutory responsibility to compensate patient-workers as non-patient workers, and that defendants intend to enforce the minimum wage and overtime compensation provisions of the Fair Labor Standards Act on behalf of patient-workers.

(2) Within 120 days from the date of this Order, inform the Superintendent of each non-Federal facility for the residential care of the mentally ill and/or mentally retarded, and the chief executive officer or officers of the supervising state agency for mental health and/or mental retardation of their obligation to maintain records of hours worked and other conditions of employment under 29 U.S.C. § 211(c) and 29 C.F.R. Part 516 for patient-workers, just as is required for non-patient employees at the same facilities.

(3) Within 120 days from the date of this Order, contact the Superintendent of each non-Federal facility for the residential care of the mentally ill and/or mentally retarded and request that he inform patient-workers at his facility of their rights under the Fair Labor Standards Act. Indications that proper attention has been given to informing the patient-workers of their rights will be:

a. That the Superintendent has notified *in writing* every resident and his guardian of his rights under the Fair Labor Standards Act, as declared in this decision;

b. That copies of such written notifications have been posed on every living unit of residential facilities for the mentally ill and/or mentally retarded;

c. That efforts have also been made to notify all residents *orally* of their rights—e.g., by holding group meetings for present residents and by establishing procedures under which each new resident will be notified of his rights within one week of his admission. In order to increase the chances that plaintiffs will fully comprehend such oral presentations, defendants may suggest to the Superintendents and to the chief executive officers of the supervising state agencies that representatives of concerned organizations be invited to observe and perhaps to participate at such meetings;

d. That non-patient employees of all non-Federal facilities for the residential care of the mentally ill and/or mentally retarded and their collective bargaining representatives or other representatives who deal with the employer on their behalf with respect to wages, hours, or other terms and conditions of employment, have been notified of this decision.

B. Reasonable enforcement activities.—Within one year from the date of this Order, defendants shall contact every institution to which the Order applies so as to establish and implement the necessary procedures [including any special certifications under 29 U.S.C. § 214] whereby every patient-worker in such institutions will be paid the wages due him. After the Department of Labor has made its initial efforts to aid the institutions in establishing their procedures for paying wages, it shall continue in the second year to give attention to investigation and enforcement of employment situations affecting the patient-workers. Thereafter, "reasonable" enforcement shall be defined to include those activities which are necessary to ensure the benefits of 29 U.S.C. §§ 206 and 207, to which patient-workers are entitled.

C. Implementation reports.—That the Secretary shall keep written records of his enforcement activities, which shall be available to the public through the Labor Department's Advisory Committee on Sheltered Workshops at six-month intervals. These reports should include a description of the activities taken to comply with the Order; the number of investigations of alleged violations of rights of patient-workers under the Fair Labor Standards Act (including a breakdown by type of establishment and number of workers involved at each such establishment), and the reason for such investigations; the results of each such investigation; and the disposition of each investigation confirming statutory violations, including lawsuits, settlements, and other enforcement activities.

E. Costs.—That Court costs be taxed to defendants.

AUBREY E. ROBINSON, Jr.,
Judge.

[U.S. District Court for the District of Columbia, Civil Action No. 482–73]

NELSON EUGENE SOUDER, ET AL. VERSUS PETER J. BRENNAN, SECRETARY OF LABOR, ET AL.

ADDENDUM

Two errors in the original Memorandum filed herein November 14, 1973, having come to the attention of the Court, it is this 7th day of December, 1973,

Ordered, that the third paragraph of footnote two of said Memorandum be and hereby is amended to read as follows:

"Plaintiff Edwin Leedy died during the pendency of this action. He was a 62 year old mentally ill resident-worker at Haverford State Hospital, Haverford, Pennsylvania, were he worked from 1956 until his death in 1973."

And it is further ordered, that the last two sentences of footnote seven of said Memorandum be and hereby are amended to read as follows:

"It should be noted that as state employees the individual Plaintiffs herein have no recourse to private lawsuits in Federal Courts to enforce their rights under the Act, but must rely on Defendants for enforcement. See Employees of the Department of Public Health and Welfare of Missouri, et al. v. Department of Public Health and Welfare of Missouri, et al., 411 U.S. 279 (1973)."

AUBREY E. ROBINSON, JR.,
Judge.

Mr. WILLIAMS. Mr. President, S. 2747 is an attempt to address the problems of poverty through the dignity of the work ethic upon which Americans have traditionally placed a high value. This bill embodies that tradition.

Passage will represent a congressional determination that all who are willing and able to work should be governed by certain minimum standards, the very least of which ought to be a living wage.

Mr. President, on September 6, 1973, President Nixon vetoed the minimum wage bill passed by Congress before the August recess. In his veto message he raised a number of issues and focued in large measure on the provisions of the vetoed bill which would have raised the minimum wage to $2 an hour on the effective date and $2.20 an hour 8 months later. He noted that, "thus, in less than a year, employers would be faced with a 37.5 percent increase in the minimum wage rate." The President expressed concern about the impact of what he referred to as "sharp and dramatic increases" upon the employment opportunities of marginal workers and also concluded that those increases would result in "a fresh surge of inflation".

In reintroducing the pending minimum wage legislation on November 27, 1973, as I indicated at that time, I made one major change in the legislative proposal. Specifically, that proposal deferred the effective date of the increase to $2.20 an hour by 4 months so that it will become effective 1 year after the effective date of the increase to $2 an hour. Estimates based on Department of Labor statistics are that this one change reduces the economic impact of this

legislation by over a half billion dollars. This change was made in the spirit of accommodation despite the fact that we all must recognize that $2.20 an hour is needed right now to make up for the incredible cost-of-living increase since we last legislated a minimum wage increase in 1966.

I was, therefore, encouraged by a letter I received yesterday from the President regarding the pending minimum wage legislation. I ask unanimous consent that this letter be printed in the RECORD at this point in my remarks. Although I sharply disagree with the points raised by the President in his letter and I hope that the Senate will enact S. 2747 in the form reported by the Committee on Labor and Public Welfare, I am encouraged by what appears to be a more conciliatory tone by the administration.

There may be those who would hope that the committee, and the floor manager particularly, would accept the President's offer and adopt it as a way of disposing of this legislative matter which has been before the Congress for 3 years now, once and for all. I cannot, in good conscience, do that. I think we must all reflect on the fact that the committee reported bill, which when first introduced in 1969 would have restored minimum wage workers to a wage rate above the poverty level and would have restored the purchasing power of their minimum wage dollar, is at best in 1974 a bill which makes up only in part for the deterioration brought about by the 42-percent increase in the cost of living since 1966. Under the President's proposal, minimum wage workers would receive $2.30 an hour no earlier than January 1, 1976.

Mr. President, that minimum wage worker needed $2.28 an hour 2 months ago, not 2½ years from now, merely to compensate for increases in the Consumer Price Index since we last legislated a minimum wage increase.

I hope the Senate will pass S. 2747 with dispatch and that the House will soon consider the bill being marked up by the Committee on Education and Labor so that a conference can produce a legislative vehicle for submission to the White House in the very near future. Of course, I hope that the President will sign that legislation.

Mr. President, I ask unanimous consent to have the President's letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, February 27, 1974.

Hon. HARRISON WILLIAMS,
U.S. Senate,
Washington, D.C.

DEAR HARRISON: I am writing to you with regard to the need for enacting a responsible minimum wage bill during this session of the Congress.

The minimum wage for most workers has now been at the same level for six years, and there can be no doubt that it should be higher. I have consistently urged appropriate increases, starting with legislative recommendations in 1971 and most recently in my State of the Union message last month. Yet, in amending the minimum wage, we must avoid hurting the many low wage workers we are trying to help. This was my concern when I vetoed H.R. 7935 last fall.

Last week, Committees of both Houses of Congress began work on new minimum wage legislation. In the House, the initial actions showed a desire to phase in increases in the minimum wage in a way which should reduce the inflationary and disemployment impact that last year's bill would have had. I am particularly encouraged by the House Sub-committee action in making some changes to help expand student employment opportunities.

There is one area of new coverage which is of special concern to me. The disemployment effects on domestic workers could be very acute if there are no practical limits on coverage and their minimum wage is put at too high a level. The adoption of a meaningful hours-worked test, especially when coupled with a delay in the increase in subsequent steps of the minimum wage, would help to ameliorate the disemployment effects that would result from covering domestic workers. However, the initial tests proposed in the House and Senate bills are so broad that they may not have their intended effect.

The extension of the Federal minimum wage and overtime requirements to State and local Government employees is also a problem. I appreciate the fact that the House bill under consideration tries to avoid undue interference in the operations of these Governments by exempting police and firemen from the overtime requirements. However, I continue to agree with the Advisory Commission on Intergovernmental Relations that, in general, additional Federal requirements affecting the relationship between these governments and their employees is an unnecessary interference with their prerogatives. The available evidence has failed to convince me that these governments are not acting responsibly in setting their wage and salary rates to meet local conditions. Additionally, if the Congress desires to make the minimum wage and overtime laws applicable to Federal employees, who are already adequately protected by other laws, it should place enforcement responsibility in the Civil Service Commission, which has the responsibility under the other laws.

The high rate of unemployment among youth and the related difficulty of too few work and training opportunities remain difficult problems. They will be aggravated by the temporary increase in unemployment resulting from the energy shortage. Within the Administration we are considering a range of proposals within the broad authorities existing in several agencies to enhance both training and work opportunities for youth. Nevertheless, I believe the most important means for preservation and expansion of work and training opportunities for young people would be the special youth differential in the minimum wage which we first proposed in May of 1971.

With a view toward additional ways to aid youth, I note that the House has shown its concern by changing the tests for special minimum wage certificates for part-time work by full-time students. This, however, does nothing for the young person no longer going to school who perhaps needs even greater help toward meaningful participation in the work force.

While I am prepared to accept a minimum wage bill that contains responsible provisions for the adult population, I believe it should be clear that such a bill, without any youth differential provision, is a vote for higher youth unemployment. Therefore I shall continue to urge the enactment of a meaningful youth differential provision in legislative action this year.

With every good wish,
Sincerely,

RICHARD NIXON.

Mr. WILLIAMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAIR LABOR STANDARDS ACT AMENDMENTS WOULD BROADEN AGE DISCRIMINATION IN EMPLOYMENT ACT

Mr. CHURCH. Mr. President, as chairman of the Special Committee on Aging, I would like to point out that the Fair Labor Standards Act amendments, which we are considering today, also include much needed improvements to the Age Discrimination in Employment Act. Section 28 of S. 2747 provides for first, expanding the coverage to include employers with 20 or more employees, instead of 25 as under the present law; second, extending the protection of the act to Federal, State, and local government employees; third, increasing the authorization of funding from $3 million to $5 million because of the broadened coverage of the act.

The Age Discrimination in Employment Act amendments which the Committee on Labor and Public Welfare have incorporated in S. 2747 are those which I introduced in S. 1810 last May and which passed the Senate as a part of the Fair Labor Standards Act amendments last session. Unfortunately, they were deleted in conference because of the House germaneness rule. This session the House is expected to include the age discrimination amendments in its companion legislation.

The extension of the coverage of Age Discrimination in Employment Act to Federal, State, and local employees is a significant and needed expansion of coverage. As the report from the Committee on Labor and Public Welfare states:

> The Committee recognizes that the omission of government workers from the Age Discrimination in Employment Act did not represent a conscious decision by the Congress to limit the ADEA to employment in the private sector. It reflects the fact, that in 1967, when ADEA was enacted, most government employees were outside the scope of the FLSA and the Wage Hour and Public Contracts Divisions of the Department of Labor, which enforces the Fair Labor Standards Act, and which were assigned responsibility for enforcing the Age Discrimination in Employment Act.

Fair Labor Standards Act coverage has since been extended to Government workers and it is only logical, the committee points out, to extend Age Discrimination in Employment Act coverage.

In the case of Federal Government workers, the Civil Service Commission will have responsibility for enforcing the age discrimination provisions and aggrieved employees may institute civil court actions. This is vitally important because the Committee on Aging has received ample evidence that age discrimination can flourish in the Federal Government despite the existence of a policy against age discrimination. The report

prepared for the committee on canceled careers in 1972 found that older employees had been singled out in some agencies for an early exit from their Government jobs.

The most recent evidence to surface is the report that the Pentagon is seeking authority to force certain personnel in responsible positions to retire at age 55. Justification for such authority is made in terms of the "worsening" manpower problems of an aging work force.

Agism is thus not limited to private industry, and I am very pleased that the committee has included my proposal for coverage of all Government workers in the amendments and thus closed an important gap in coverage.

We must continue to reduce barriers to employment of older persons and to resist pressures to usher workers out of the labor force while they are still able to work and before they can afford retirement. Living on a fixed income was never easy. And in these inflationary times it is harder than ever. Almost before a social security increase can go into effect, it is wiped out by increases in living costs. Income from earnings is still the best way to maintain a decent standard of living for older people as well as for younger people.

The Age Discrimination in Employment Act protects the rights of middle-aged and older workers to work-income, and I urge the adoption of these amendments which would extend this protection to Government workers as well as private employees.

Mr. JAVITS. Mr. President, I think that the most eloquent summary of what we are doing in respect of this bill is found in the letter of the President addressed to me and to other Senators and Congressmen who are concerned with the minimum wage. In his letter yesterday the President said, and I wish to read one sentence:

> The minimum wage for most workers has now been at the same level for 6 years and there can be no doubt it should be higher.

I think that is about it. I think that is true by any calculation; for instance, in order to make up for cost-of-living increases since February 1, 1968, employees who were covered pre-1966, the basic group covered by minimum wage, should at this stage be receiving $2.17 an hour. That is strictly applying the cost-of-living test. It seems to me that under these circumstances, when we are dealing with the law that would give these same workers a minimum wage of $2 upon enactment and $2.20 1 year after enactment, that we certainly are being extremely conservative, especially with the anticipated inflationary factor of 7-percent-plus this year, anticipated by the Council of Economic Advisers and the financial authorities of our Government.

What has held up this matter? Part of the delay has been a Presidential veto. What held it up has been a practically deadlocked situation respecting treatment of youth, with the President saying, and I refer to his letter, that it is of great concern to him that there should be an adequate youth differential to enhance both the training and work opportunities for youth.

I have contended constantly and I have yet to hear a substantive argument to the contrary, that the existing provisions of the Fair Labor Standards Act; namely, section 14(a) in respect of giving the Secretary sufficient latitude with respect to what is needed in the way of a minimum wage differential for appropriate training purposes, enable younger people to learn a job. If on the other hand, what is implied is an absolute differential because they are youth, without a performance standard or without status, such as students, justifying it, then the AFL–CIO is correct that the only purpose of it is to get a discount on the minimum wage for employing youths.

Under section 14(a) special minimum wage rates can be established for all "learners" and "apprentices" provided, of course, appropriate safeguards are observed to insure that the training program is not merely a subterfuge to replace adults with "trainees" at subminimum rates. A formal apprenticeship program is not required and the Secretary, in determining who is a "learner," will obviously apply all of the experience and knowledge as to the needs of workers gained under the various manpower training programs administered by the Department of Labor.

We went even further than that in respect to the bill before us now, in the area of certificates for full-time students, up to four, where we practically have taken off every restriction. There used to be a test that the particular employer was employing about the same number of full-time students that he had historically. But we have taken off the test with respect to the first four, and that should satisfy any requirements so far as student employment is concerned. In short, I believe we have dealt with the youth employment factor in the most accommodating way. There is no reason why this should deadlock the bill any further.

I am very hopeful that this time out we shall strive to give the President a reasonable bill; that this time out the President will sign the bill we send to him; and that is intimated from the last paragraph of the President's letter in which he said:

> I am prepared to accept a minimum wage bill that contains responsible provisions for the adult population. . . ."

This bill certainly contains provisions for the adult population. It should not be held up any further in any way.

Mr. President, the Senate bill which passed last year was a more liberal bill than the bill which emerged from conference. There were many changes made with respect to the treatment of employees working overtime, and various exemptions of all kinds which were dealt with.

Personally, I yielded a great deal in agreeing to certain provisions in regard to child labor when the Senate bill absolutely eliminated child labor on the farm, as it should have; child labor in the industrial field having been prohibited 36 years ago. The conference bill, as well as the bill now before us, eliminates child labor on covered farms only.

So the President would be getting a bill that came out of conference which was fully agreed to and which represented a considerable step-down from the Senate bill. The present bill makes two changes in the conference bill: one, that the effective date of the second increase for pre-1966 employees would take effect 1 year after enactment instead of a fixed date after enactment, which is the way it was before; and second, there should be no discrimination against Government employees at any level, State, local, or Federal, on account of age.

Other than that, in this bill, which the Senate is asked to pass, he gets exactly the deal which conferees between the House and the Senate agreed to in what was extremely tough bargaining. I know because I was a conferee.

Now, just a few other observations. I mentioned the question of child labor and pointed out that child labor was absolutely eliminated in last years Senate bill, as it should have been. When we conferred with the House there was quite a tangle on the subject, which took us a very considerable time to resolve, and finally we worked out a solution as follows:

On covered farms agricultural chiid labor under 12 years of age is forbidden; between 12 and 14 permitted with parental consent; and between 12 and 16 years of age that they may work only when the local school district is not in session.

Then, we sent further in that regard and adopted the concept of serious penalties if this were violated, with civil penalties up to $1,000 for each violation. This, of course, applied to what are covered farms; that is, farms meeting the 500 man-day requirement.

Mr. President, I realize the concerns which many persons have about the fact that we are in an inflationary period—and we are in an inflationary period, a very serious one—but no American is denying contributions to the Red Cross or to the Community Chest or to any other aspect of civil life which represents the humanity of man to man, which is the true ornament of our system. I deeply believe, and I again invoke the President's words, that we have stayed at this level for 6 years, and I deeply believe that this is the kind of law that represents an element of humanity and justice, man to man.

It really is so unjust under present conditions that, as I believe the President has done, we simply have to subordinate our pet ideas in order to arrive at a bill. I gave an example of it in the case of agricultural child labor, which was a hard compromise for me to make, as can be understood, for I stood alone for years in an effort to eliminate child labor from all farms as it had been eliminated from industrial plants. It was a very hard one for me to do, but I did it because it would be meaningless to be so inflexible that we did not get any of it in order to eliminate a good bit of it. So I finally came to a compromise which eliminated it on

covered farms only. That, in itself, is a historic breakthrough.

Two other matters which I would like to refer to are the inclusion in the bill of domestics and the other inclusion, which has raised so many problems, regarding governmental employees.

First as to domestics, all of us have had experience with domestics. Nobody expects agents of the Department of Labor to go knocking on housewives' doors to investigate whether they are paying the minimum wage under the law. It is the kind of situation where dependence will have to be placed upon voluntary compliance and complaints in order to enforce the law. Indeed, hopefully, people will be encouraged and emboldened to complain, because there are a good many people who employ household help—what we call domestics in this bill—who simply have no concept of the fact that peonage and the servant culture are simply un-American and against the grain of anything that we believe in.

The dignity to which the domestic employee is entitled has now been locked in with social security, which is a tremendous blessing to every one of them, including those which my wife and I and others of us have employed for years.

It simply is beyond me why we should omit them from the minimum wage, when they are really performing a service, instead of representing any relationship of master and slave, which is truly archaic in the modern day.

We certainly have cut down those who are covered to really those who make it a regular part of their occupation, and we have exempted live-in domestics from overtime, thus understanding the practicability of homes and those who live in them and render these household services in them. As a matter of dignity as well as decency, they ought to be included. It is one of the finest parts of the bill that they are included.

Then, too, the inclusion of State and local government employees simply recognizes the fact that governments ought to meet the same standards imposed on private employers. In the case of people who work for any government entity, there is no competition. That is the only employer there is. So, all the more reason for requiring minimum standards.

We have taken care of all security forces by phasing in overtime over a period of years, and including averaging provisions on overtime on a 4-week basis, thereby answering the argument of those who would say that for security forces it is completely impracticable to have an overtime provision.

Mr. President, we are very resentful, very unhappy, when workers in the public domain threaten to strike. This is inevitably the result of the deep feeling that economic justice cannot otherwise be obtained, and I respectfully submit that we will go a lot further in getting tranquility in the labor field by giving them a minimum wage status and an overtime status than in almost any other way I can think of, and prevent the feeling on their part that the only way one can get justice is by rule of the jungle, to wit, by strike and ceasing essential public service.

So I hope, for all the reasons I have stated, that the Senate will be able to approve this bill and that we will get it on its way and, with the new attitude of the President, very hopefully we will give him a measure that he not only can but will find to be one which can have the approval which, in my judgment, is so clearly indicated.

I yield the floor.

Mr. TAFT. Mr. President, amendments to the Fair Labor Standards Act were last enacted in 1966 and I believe there is a need for a constructive increase in the minimum wage such as contained in the substitute amendment being offered by Senators DOMINICK, BEALL, and myself. Unfortunately, after 3 years of congressional consideration, no constructive amendments to the act have become law. The bill reported out by the committee is essentially identical to the bill vetoed by the President in the summer of 1973, and the reasons for rejecting the bill last session are equally as compelling in certain areas for S. 2747.

The committee heard no witnesses and had before it little or no current data upon which to assess the effects on the economy of the actions it took, especially with regard to exemptions and extensions of coverage. The failure of the committee to include new initiatives to reduce youth unemployment is also extremely disappointing.

As we stated in the minority views to the committee proposal this year, S. 2747, and the Senate bill that was rejected last year, S. 1861, many difficulties appear in the approach the Senate Labor and Public Welfare Committee has taken on this issue.

For example, the committee has either repealed or modified a great number of current exemptions in the act with little or no economic criteria before the committee. In fact, no hearings whatsoever were held on S. 2747 before it was reported by the committee. The potential adverse economic effect resulting from repeal or modification of these exemptions to certain segments of the economy, especially small business, is significant and in certain cases the committee's action may mean economic fatality for many thousands of their employees. For example, S. 2747 would repeal or severely modify current exemptions in the Fair Labor Standards Act for the following areas and occupational categories: retail and service establishments grossing less than $250,000 annually—complete repeal of minimum wage and overtime exemption—tobacco employees; nursing home employees; hotel, motel and restaurant employees; salesmen, partsmen and mechanics; food service establishment employees; seasonal industry employees; cotton ginning and sugar processing employees; and, local transport employees.

At the very least, action should not be taken in these areas until sufficient current facts are before the committee to permit each exemption to be considered on its own merit.

Equally as distressing is that S. 2747 is deficient with regard to new initiatives to increase employment opportunities for youth. As an example of this acute problem, the national unemployment rate as of January 1974 for Caucasians 16 and 17 years of age was 16.8 percent and for non-Caucasians 16 and 17 years of age, the rate was a towering 38.9 percent. These statistics underscore the need for implementation of a national program of specialized wage structures for youth similar to proposals I have advocated with many of my colleagues during prior consideration on this issue. Such a national initiative would constructively supplement the broad authority the Secretary of Labor currently has available under section 14 of the act with regard to adoption of special wage structures for youth employment and training.

Domestic service employees would be covered for the first time under the bill as reported by the committee with a wage scale for such employees the same as that established for those who have been under coverage for some time. While I share the concern the committee has expressed for the economic advancement for individuals in this occupational category, I believe such an extension of coverage under the act will further complicate tax and reporting problems and create further unemployment. Certainly a more practical approach than covering all such employees who earn more than $50 in a calendar quarter—committee incorporation of section 209(g) of the Social Security Act—can be found to reflect the committee's concern in this area.

I believe Congress should expeditiously enact constructive increases in the minimum wage to help compensate for the eroded purchasing power of our lowest paid workers. The longer a minimum wage increase is postponed, the greater the pressure will be for excessive increases over too short a period of time, thus maximizing the inflationary and disemployment effects on the economy. To continue to hold a wage rate increase hostage to unrelated political issues only penalizes our Nation's lowest paid workers. Therefore, I am hopeful the Senate will adopt constructive changes in the committee bill to permit amendments to the Fair Labor Standards Act to become a reality during this session of Congress.

Mr. President, I have a number of amendments which I shall send to the desk and ask to have printed. I also have statements with regard to those amendments.

Mr. President, the Senator from Colorado is on one of the amendments. One of the amendments I intend to offer at this time is an amendment sponsored primarily by the Senator from Colorado. I have made mention of the amendment. If the Senator from Colorado wishes to offer it on his own behalf, I will withdraw my sending of the amendment to the desk.

Mr. DOMINICK. The Senator can go right ahead as long as my name is on it.

Mr. TAFT. Mr. President, I send these amendments to the desk.

The PRESIDING OFFICER. The amendments will be received and printed, and will lie on the table.

AMENDMENT NO. 981

(Ordered to be printed, and to lie on the table.)

Mr. TAFT. Mr. President, I send to the desk a substitute amendment to be offered by Senator DOMINICK with cosponsorship of myself and Senator BEALL to S. 2747. This substitute amendment addresses itself only to the minimum wage issue and would establish a $2.30 minimum for both nonagriculture and agriculture employees covered by the Fair Labor Standards Act over a series of steps.

A constructive minimum wage increase is needed now, and agreement as to the amount of such an increase appears to be achievable relatively quickly. The major minimum wage proposals this year do not differ substantially with regard to wage rates. On the other hand, a compromise agreement resolving the more controversial issues which have caused the present impasse—extensions of coverage, repeal of exemptions, and a youth subminimum rate—appear to be much more difficult.

The controversial and complex proposals which are unrelated to wage rates should be required to stand or fall on their own merits. To continue to hold a wage increase hostage to them only penalizes our lowest-paid workers.

I ask unanimous consent that the amendment be printed in its entirety in the RECORD and a comparison between the Dominick-Beall substitute amendment; the committee bill, S. 2747; the pending House bill, H.R. 12435; the vetoed bill of last year, H.R. 7935, and current law, also be printed in the RECORD.

There being no objection, the amendment and material were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 981

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Fair Labor Standards Amendments of 1974".

INCREASE IN THE MINIMUM WAGE

SEC. 2. (a) Section 6(a)(1) of the Fair Labor Standards Act of 1938 is amended to read as follows:

"(1)(A) Not less than $2 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1974,

"(B) Not less than $2.10 an hour during the second year from the effective date of such amendments,

"(C) Not less than $2.20 an hour during the third year from the effective date of such amendments,

"(D) Not less than $2.30 an hour thereafter.".

(b) Section 6(a)(5) of such Act is amended to read as follows:

"(5) if such employee is employed in agriculture, not less than $1.60 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1974, not less than $1.80 an hour during the second year from the effective date of such amendments, not less than $2.00 an hour during the third year from the effective date of such amendments, not less than $2.20 an hour during the fourth year from the effective date of such amendments, and not less that $2.30 an hour thereafter.".

(c) Section 6(b) of such Act is amended—

(1) by inserting after the words "Fair Labor Standards Amendments of 1966" a comma and the following: "or title IX of the Education Amendments of 1972"; and

(2) by striking out paragraphs (1) through (5) of such section and inserting in lieu thereof the following:

"(1) not less than $1.80 an hour during the first year from the effective date of the Fair Labor Standards Amendments of 1974;

"(2) not less than $2.00 an hour during the second year from the effective date of such amendments;

"(3) not less than $2.20 an hour during the third year of such amendments; and

"(4) not less than $2.30 an hour thereafter.".

TECHNICAL AMENDMENTS

SEC. 5. (a) Section 6(c)(2)(C) of the Fair Labor Standards Act of 1938 is amended by substituting "1974" for "1966" each time it appears in such paragraph.

(b)(1) Section 6(c)(3) of such Act is repealed.

(2) Section 6(c)(4) of such Act is redesignated as section 6(c)(3).

EFFECTIVE DATE

SEC. 6. The amendments made by this Act shall take effect on the first day of the second full month which begins after the date of the enactment of this Act.

COMPARISON OF PRESENT LAW, VETOED BILL (H.R. 7935), HOUSE EDUCATION AND LABOR BILL (H.R. 12435), S. 2747, AND PROPOSED TAFT, DOMINICK, BEALL SUBSTITUTE AMENDMENT

Employee categories	Present law	Vetoed bill (H.R. 7935)	House Education and Labor bill (H.R. 12435)	S. 2747	Taft, Dominick Beall Substitute
Pre-1966	$1.60	$2, period ending June 30, 1974 $2.20 after June 30, 1974 (Note: effective date—1st day of 2d full month.)	$2, period ending Dec. 31, 1974 $2.10, year beginning Jan. 1, 1974 $2.30 after Dec. 31, 1975 (Note: effective date—1st day of 2d full month.)	$2 an hour on effective 1974 date $2.20 thereafter, 1975	$2, 1974. $2.10, 1975. $2.20, 1976. $2.30, 1977.
Post-1966	1.60	$1.80, period ending June 30, 1974. $2, year beginning July 1, 1974. $2.20 after June 30, 1975.	$1.90, period ending Dec. 31, 1974. $2, year beginning Jan. 1, 1975. $2.20, year beginning Jan. 1, 1976. $2.30 after Dec. 31, 1976 (exception in domestic service).	$1.80 an hour on effective 1974 date. $2 a year thereafter, 1975. $2.20 2 years thereafter, 1976.	$1.80, 1974. $2, 1975. $2.20, 1976. $2.30, 1977.
Agriculture	1.30	$1.60, period ending June 30, 1974. $1.80, year beginning July 1, 1974. $2, year beginning July 1, 1975. $2.20 after July 1, 1975.	$1.60, period ending Dec. 31, 1974. $1.80, year beginning Jan. 1, 1975. $2, year beginning Jan. 1, 1976 $2.20, year beginning Jan. 1, 1977. $2.30 after Dec. 31, 1977.	$1.60, 1974. $1.80, 1975. $2, 1976. $2.20, 1977.	$1.60, 1974. $1.80, 1975. $2, 1976. $2.20, 1977. $2.30, 1978.

AMENDMENTS NOS. 982, 983, AND 984

(Ordered to be printed, and to lie on the table.)

Mr. TAFT. Mr. President, I plan to offer amendments to S. 2747 when it is considered next week.

The amendments I plan to offer in addition to supporting the amendments to be offered by the senior Senator from Colorado (Mr. DOMINICK) include the following:

ECONOMIC STUDY AMENDMENT

This amendment would mandate the Department of Labor, the Department of Commerce, and the Council of Economic Advisers to study the economic impact of any proposed changes in the Fair Labor Standards Act. Such information would be required to be supplied to the Congress and to the pertinent congressional committees before any action could be taken on such proposals. This approach I believe would permit the Congress to better evaluate the potential affects of any actions in this area on the economy as a whole, or occupational categories within the economy.

DEPRESSED EMPLOYMENT CATEGORIES STUDY

This amendment would require the Department of Labor, the Department of Commerce, and the Council of Economic Advisers to periodically report to the Congress regarding methods to reduce unemployment among selected occupational and age categories. This approach is especially desirable to combat the extremely high rate of youth unemployment and would supplement the already broad authority the Department of Labor has under section 14 of the Fair Labor Standards Act.

LIQUIDATED DAMAGES

The proposed amendment would strike the provision of S. 2747 permitting the Secretary of Labor to recover liquidated damages under the act. There is no rationale for this inclusion of this new authority and the background of this issue can be better explained by the legal memorandum, which I ask unanimous consent to have printed in the RECORD, with the text of the amendments.

There being no objection, the amendments and memorandum were ordered to be printed in the RECORD, as follows:

AMENDMENT No. 982

On page 46, line 11, beginning with the word "The" strike out through the period in line 17 and insert in lieu thereof the following: "The Secretary of Labor, the Secretary of Commerce, and the Council of Economic Advisers shall each conduct studies on the economic effect of amendments to this Act which increase coverage of workers, modify or repeal exemptions, or increase the minimum wage. Such studies shall be forwarded to the Congress before any change in the Fair Labor Standards Act is adopted.

AMENDMENT No. 983

On page 46, line 10, strike the word "paragraph" and insert in lieu thereof "paragraphs".

On page 46, line 20, strike the end quotation marks.

On page 46, insert between lines 20 and 21 the following:

"'(3) The Secretary of Labor, the Secretary of Commerce, and the Council of Economic Advisers shall each conduct a study on means to prevent curtailment of employment opportunities among manpower groups which have had historically high incidents of unemployment, such as disadvantaged minorities, youth, elderly, and such other groups the Secretary may designate.' Such studies shall include suggestions under the broad authority that the Secretary of Labor has available under Sec. 14 of the Fair Labor Standards Act and shall be transmitted to the Congress at two year intervals after the effective date of these amendments."

AMENDMENT No. 984

On page 45, beginning on line 2, strike out all through line 2, page 46 and insert in lieu thereof the following:

"SEC. 26. The first three sentences of section 16(c) are amended to read as follows: 'The Secretary is authorized to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee or employees under sections 6 or 7 of this Act, and the agreement of any employee to accept such payment shall upon payment in full constitute a waiver by such employee of any right he may have under subsection (b) of this section to such unpaid minimum wages or unpaid overtime compensation and an additional equal amount as liquidated damages. The Secretary may bring an action in any court of competent jurisdiction to recover the amount of the unpaid minimum wages or overtime compensation. The right provided by subsection (b) to bring an action by or on behalf of any employee and of any employee to become a party plaintiff to any such action shall terminate upon the filing of a complaint by the Secretary in an action under this subsection in which a recovery is sought of unpaid minimum wages or unpaid overtime compensation under sections 6 and 7 provided by this subsection owing to such employee by an employer liable under the provision of subsection (b), unless such action is dismissed without prejudice on motion of the Secretary.' "

MEMORANDUM ON LIQUIDATED DAMAGES

PRESENT LAW

(a) The present Fair Labor Standards Act ("FLSA"), Section 16(b), permits an employee, for himself and others similarly situated, to bring suit against an employer for unpaid minimum wages and overtime compensation and for an additional amount as liquidated damages. The liquidated damages proviso was to permit the employee to be compensated for his time and effort in establishing his case and not as a penalty for the employer.

(b) Section 16(c) of the present Fair Labor Standards Act permits the Secretary to bring suit on behalf of employees against the employer for unpaid minimum wages and overtime compensation. There is no provision for recovery of liquidated damages when the Secretary brings suit. The Secretary has a staff for making investigations and preparing for a lawsuit, for which activities provision is made in the Government's budget.

(c) If a violation is found to be "wilful", the employer is liable for back wages for a period of three years; otherwise, the period is two years (Section 6 of the Portal to Portal Act). "Wilful" has been interpreted by the courts to mean an awareness of the existence of the FLSA. *Brennan v. J. M. Fields, Inc.*, 488 F2d 443, 72 L.C. Para. 32993 (5 Cir. 1974). *Coleman v. Jiffy June Farms*, Inc., 458 F2d 1139 (5 Cir. 1972). The Department of Labor in essence is asserting that all equal pay violations are "wilful" and hence liability for three years exists.

(d) Section 11 of the Portal to Portal Act provides that a court may award no liquidated damages or an amount less than full allowable amount if the employer shows to the court it acted in good faith and on reasonable grounds. The interpretations by the courts and the Secretary of Labor (29 CFR Part 790) state questions of good faith are mixed questions of law and facts to be determined by objective tests, but these tests are not spelled out.

(e) Under Section 16(b) of the FLSA, the employee may recover his attorneys' fees and costs.

PROPOSED 1974 AMENDMENT TO FLSA

The proposed amendment in S. 2747 to Section 16(c) of the Act permits the Secretary to recover liquidated damages in an amount equal to unpaid minimum wages or overtime compensation. However, under Section 11 of the Portal to Portal Act, the court may award no liquidated damages or less than the full allowable amount if the employer can show he acted in good faith and had reasonable grounds for believing that his act or omission was not a violation of the Act, even though such act or omission could be defined as "wilful" for purposes of the Statute of Limitations in Section 6 of the Portal to Portal Act.

PRESENT ENFORCEMENT PRACTICES

(a) The courts and the Department of Labor in equal pay litigation arising under Section 6(d) of the FLSA have taken the position that equal pay violations are wilful for purposes of Section 6 of the Portal to Portal Act.

(b) An act or omission to act may be wilful for purposes of the Statute of Limitations under Section 6 because of awareness of existence of the FLSA. However, for purposes of Section 11 of the Portal to Portal Act, an act committed in good faith may yet be wilful. *Coleman v. Jiffy June Farms, Inc.*, 458 F2d 1130 (1972); *Brennan v. J. M. Fields, Inc.*, 488 F2d 443, 72 L.C. 32993 (1973).

Where, for example, courts have arrived at differing results for comparable fact situations in the application of the equal pay provisions, an employer relying upon counsel's opinion would be deemed acting in good faith and upon reasonable grounds. However, a court could ultimately decide the act was a wilful violation for Section 6, but was done in good faith for Section 11. No court has specifically made this point.

CONCLUSION

(a) It is not necessary to give the Secretary the additional leverage of liquidated damages to force settlement for claims of back pay under FLSA. For fiscal 1973 enforcement of FLSA by the Secretary resulted in over $40,000,000 in payment of back wages to almost 200,000 workers.

(b) The purpose of the liquidated damages proviso in Section 16(b) was to compensate the employee for his efforts and expenses of investigation. This is not needed by the Secretary.

(c) The good faith defense provision in Section 11 of the Portal to Portal Act may not be sufficient protection on which an employer may rely in a questionable case; especially due to conflicting interpretations of sections of the Act.

AMENDMENT NO. 985

(Ordered to be printed, and to lie on the table.)

EXPLANATION OF TAFT AMENDMENT ON WAGE COMMISSION

Mr. TAFT. Mr. President, the Federal Salary Act of 1967 provides that a Wage Commission have jurisdiction over all Federal salaries, including those of Members of Congress.

This amendment would remove the Commission's authority over congressional salaries.

The Senate Post Office and Civil Service Committee has already expressed its view by reporting legislation which eliminates the pay raise given to Members of Congress by the President's proposal. I believe that congressional salaries have been hidden in other legislation too long, and when we feel we need a raise, or deserve a raise, it should be debated openly, as any other legislation, not resolved in a closed committee room. The public is entitled to know our expenses, and the state of our finances. If we are feeling the pinch of inflation, the public is entitled to know that, too. Perhaps if all the facts were bared, congressional salary increases would not have to be passed up out of fear, and could be legislated when necessary, based on the cost of living.

I ask unanimous consent that the text of the amendment be printed in the RECORD. I also have offered this amendment as a separate bill.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 985

On page 1, between lines 2 and 3, insert the following:

"TITLE I—FAIR LABOR STANDARDS AMENDMENT"

On page 1, line 4, strike out the word "Act" and insert in lieu thereof the word "title".

On page 1, line 7, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, line 14, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, line 20, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, after line 20, add the following new title:

"TITLE II—AMENDMENTS TO THE FEDERAL SALARY ACT OF 1967 REMOVAL OF MEMBERS OF CONGRESS FROM THE COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

"SEC. 201. (a) Section 225(f)(A) of the Federal Salary Act of 1967 is repealed.

"(b)(1) Section 225(g) of such Act is amended by striking out '(A),'.

"(2) Section 225(h) of such Act is amended by striking out '(A),'."

AMENDMENT NO. 986

(Ordered to be printed, and to lie on the table.)

EXPLANATION OF TAFT AMENDMENT ON DAYLIGHT SAVING TIME—I

Mr. TAFT. Mr. President, this amendment is identical to a bill which I introduced in the Senate on January 29, to permit any State to exempt for winter daylight saving time, if the Governor of the State proclaims that the new time is causing a hardship and not saving energy, or in the absence of such a proclamation by the Governor, if the State legislature makes such a proclamation.

I opposed winter daylight saving time when it passed the Senate in December, 1973, because I did not feel it would save a material amount of energy insofar as the economy of the State of Ohio is concerned, and because I worried about the schoolchildren who would have to go to school or wait for buses in the dark. This would especially be a problem for those citizens living on the western edge of a time zone, as many Ohioans do.

While I favor the complete repeal of

winter daylight saving time, and have another amendment which would accomplish this, I also feel that each individual State should have the opportunity to decide if winter daylight saving time is beneficial for its own economy. The present law states that if a Governor wanted to exempt his State from the law, he would have to proclaim a hardship and petition prior to the date of effectiveness of the law, which was January 6. My amendment would extend this time limit.

I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 986

On page 1, between lines 2 and 3, insert the following:

"TITLE I—FAIR LABOR STANDARDS AMENDMENT"

On page 1, line, 4, strike out the word "Act" and insert in lieu thereof the word "title".

On page 1, line 7, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, line 20, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, line 20, srike out the word "Act" and insert in lieu thereof the word "title".

On page 51, after line 20, add the following new title:

TITLE II—AMENDMENTS TO THE EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT OF 1973

EXEMPTION FROM EMERGENCY DAYLIGHT SAVING TIME

SEC. 201. Section 3(b) of the Emergency Daylight Saving Time Energy Conservation Act of 1973 is amended to read as follows:

"(b) Notwithstanding any other provision of law, if a State, by proclamation of its Governor or in the absence thereof by Act of its State legislature, makes a finding that an exemption from the operation of subsection (a) or a realinement of time zone limits is necessary to avoid undue hardship or to conserve fuel in such State or part thereof, the President or his designee may grant an exemption or realinement to such State.".

AMENDMENT NO. 987

(Ordered to be printed, and to lie on the table.)

EXPLANATION OF TAFT AMENDMENT ON DAYLIGHT SAVING TIME—II

Mr. TAFT. Mr. President, this is a very simple amendment. It would end winter daylight saving time, as of 2 a.m., the first Sunday after enactment.

There have been several bills introduced in the House and the Senate which would accomplish the termination of winter daylight saving time. I am a cosponsor of one of them. However, no action has been taken on these bills, and I feel that the impact will be lost if we fail to repeal the winter daylight saving time before it begins to get light earlier in the morning and people forget the hardship and inconvenience caused by a later daylight hour.

Therefore, I feel it is important that this amendment be accepted now, so that we can prevent a recurrence of the winter daylight saving again next winter.

I ask unanimous consent that the text of the amendment be printed in the RECORD as follows:

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 987

On page 1, between lines 2 and 3, insert the following:

"TITLE I—FAIR LABOR STANDARDS AMENDMENT".

On page 1, line 4, strike out the word "Act" and insert in lieu thereof the word "title".

On page 1, line 7, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, line 14, strike out the word "Act" and insert in lieu thereof the word title".

On page 51, line 20, strike out the word "Act" and insert in lieu thereof the word "title".

On page 51, after line 20, add the following new title:

TITLE II—AMENDMENTS TO THE EMERGENCY DAYLIGHT SAVING TIME ENERGY CONSERVATION ACT OF 1973

TERMINATION OF EMERGENCY DAYLIGHT SAVING TIME

SEC. 201. Notwithstanding the provisions of section 7 of the Emergency Daylight Saving Time Energy Conservation Act of 1973 such Act shall terminate at 2 o'clock antemeridian on the first Sunday which occurs after the date of enactment of this Act.

Mr. DOMINICK. Mr. President, as everyone knows, we are now considering a minimum wage subject which is no stranger to either House of the Congress. It has been approximately 6 months since the minimum wage bill was vetoed. And that veto was sustained. It has been approximately 3 months since Senators TAFT, BEALL, and I tried to put together an amendment which is similar to the one which the Senator from Ohio has just sent to the table on my behalf which would raise the minimum wage rate only. That amendment was tabled. So we have had a lot of argument about minimum wage.

During the debate last summer, I had warned about that veto, and now the Labor Committee, over the dissenting voices of Senators TAFT, BEALL and myself, has gone and reported out an almost identical bill to the vetoed proposal. I again fail to see the wisdom of such action, and as I have in the past, urge that the solution to the minimum wage impasse is compromise. Therefore, we will be offering an amendment as a substitute bill.

I might say that there comes a time in everybody's mind when we have been over and over a question that one wonders whether some of the people behind the Williams-Javits bill really want a minimum wage bill or an issue. If they want a minimum wage bill, I suggest to them an amendment that I will offer at a later date will be the one to accept because it avoids most of the controversial proposals.

The purpose of our amendment is very simple: to insure congressional action on a minimum wage increase that will be tolerable to all parties concerned. Our amendment quite simply provides for substantial increases in the wage. Some of us on the Labor Committee have been accused of not being willing to compromise on minimum wage legislation. Well, I would submit that when one follows the history of this debate and reviews the latest proposal that we are offering today, clearly it is a reasonable compromise between conflicting points of view.

The committee bill would immediately raise workers covered under section 6(a)(1) in the law to $2 an hour. We too would do that. The committee bill would raise workers covered under section 6(b) of the act to $1.80 an hour. We too do that. The committee bill would raise covered farmworkers to $1.60 an hour. We too do that. Eventually, the committee bill ends up at $2.20 an hour for all of these classes of employees. Our amendment pretty much follows the wage rate set out by the committee and would eventually result in a $2.30 an hour rate after 4 years for nonagricultural workers and in 5 years for farm workers.

So, in fact, our amendment offers higher rates than the committee bill and over a longer period.

Mr. President, we believe that this approach is a reasonable compromise so that people now covered under the act can and will be assured of a reasonable and orderly wage increase. I am not opposed to an increase in minimum wage and neither are, I am sure, the Senators who will support our approach. One only has to look at the prices of gas and food to know that we need some increase in the wage rates. However, the committee bill, I feel, does not carry with it a reasonable approach to the issues for which we have sought a compromise: Issues on extension of coverage, repeal of exemptions and a differential wage structure for youth.

If the Senate passes the bill as reported by the committee, it will be acting without facts or figures to assess the economic impacts. The problem, for example, created by the committee's action with respect to overtime for Federal, State and local employees will be enormous. State and local governments will bear the brunt of this provision, and I submit it will in the end only place greater strains on their budgets to the tune of almost $3.5 billion.

Mr. President, furthermore, most of the State and local employees working for State and local governments have entered into negotiations with and agreements with their own governments with respect to those particular phases.

Many of them are working 4 days on and then take a considreable period off. Some of them are working 8 days on and then taking a considerable period off. They are all different in the State and local governments. And when we blanket them in under an overtime provision, we negate all of the collective bargaining agreements they have arrived at. We create a really very substantial problem for the State and local governments.

I might also add, particularly with respect to the firemen and policemen whom we have been trying to protect for a long period, that this is also true.

Domestic coverage, of course, has been broadly granted by the committee. For the life of me, legislation which would require housewives to become personnel recordkeepers is not justifiable. I do not want to be the one who has to explain to the voting housewives why they have violated the Federal law by not paying minimum wage to the boy across the street who may mow the lawn once a week for $5. Then, of course, there is the payment to the babysitter from next door who may babysit more than on a "casual basis". I, of course, have trouble understanding what is a "casual" as opposed to a "not" casual basis. I am a lawyer, but I would have difficulty advising a client whether the girl who decides she is going to babysit 3 nights a week for the summer is an employee employed on a "casual" basis. There simply is no way for me as a lawyer to determine what this would mean.

Supposedly all is not lost with domestics because those who earn less than $50 per quarter are not covered. Well, that works out to little more than $4 per week. So if you work long enough for one employer to earn enough to buy about one-half tank of gas, then you must be paid the minimum wage. I believe that this will only result in administrative nightmares as well as more unemployment besides which the constitutional issue is here, which is that we are only supposed to be interfering in this type of thing where it affects interstate commerce. How in the world anyone can tell me that a babysitter coming in its substantially affecting interstate commerce, or that a neighbor's kid from across the street who mows your lawn is doing that, I do not know. If the court should ever go that way, certainly we will have no restrictions whatsoever as to what we can do in this Federal Government in the way of interference with personal liberties.

Mr. President, there are other features about the committee bill which I believe will result in further problems. Many exemptions which have been established by Congress for good reasons over the years will be wiped out without regard to whether these reasons still exist. Moreover, this bill fails completely to lessen the adverse impact of wage increases on youth unemployment. The bill fails to address itself to the unemployment rate among teenagers who are not in school. The unemployment rate for teenagers is high—16.8 percent for white youths aged 16–17 and 38.9 percent for 16–17-year-old nonwhites as of January 1974. In my opinion it is most unfortunate that the committee bill fails to address itself to that problem, which is probably as great, in the unemployment field, as any we have.

Mr. President, as the debate on the committee bill goes on, I am hopeful that my colleagues will adopt responsible amendments to strengthen the committee bill to provide a meaningful wage increase that is acceptable to all of us.

As I have said before, the amendment which has been offered by the senior Senator from Ohio with the Senator from Maryland (Mr. BEALL) and myself does nothing on these controversial subjects. All it does is provide an increase in the minimum wage, which is what I, for one, and Senator TAFT and Senator BEALL have been trying to do for 2 years. We have been unable to get anywhere in committee, and we have been voted down on the floor.

It just seems to me without any doubt whatsoever that in order to avoid the risk of another vetoed bill, in order to avoid the possibility of having the minimum stay at its 1966 level, which is obviously unfair, and in order to meet the necessary increase in costs which those under the minimum wage are now enduring because of the inflationary process, we ought to go forward with a minimum wage measure at this time.

Mr. President, I ask unanimous consent that Mr. Robert Bohan, a member of the minority staff, be admitted to the floor during the debate on the minimum wage bill and the votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

What is the will of the Senate?

Mr. DOMINICK. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HASKELL). Without objection, it is so ordered.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. WILLIAMS. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair.

There being no objection, at 5:04 p.m. the Senate took a recess subject to the call of the Chair.

The Senate reassembled at 5:48 p.m. when called to order by the Presiding Officer (Mr. HASKELL).

SENATE RESOLUTION 293—DISAPPROVAL OF PAY RECOMMENDATIONS OF THE PRESIDENT—UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I have been authorized by the distinguished majority leader to propose the following unanimous-consent requests. The requests have been cleared with the distinguished Republican leader, the distinguished assistant Republican leader, the distinguished manager of the resolution, Senate Resolution 293, the Senator from Wyoming (Mr. MCGEE), the distinguished ranking Republican member of the Post Office and Civil Service Committee, the Senator from Hawaii (Mr. FONG), the distinguished Senator from Idaho (Mr. CHURCH), the distinguished Senator from Colorado (Mr. DOMINICK), the distinguished Senator from Idaho (Mr. MCCLURE), the distinguished Senator from Alaska (Mr. STEVENS), the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT), and other Senators.

Mr. President, I ask unanimous consent that the distinguished majority leader may be permitted at any time on tomorrow to offer a cloture motion on Senate Resolution 293; provided further, that on Monday there be 2 hours of debate on an amendment to be offered by the Senator from Wyoming (Mr. MCGEE), by way of a perfecting amendment to Senate Resolution 293, the time to be under the control, respectively, of the Senator from Wyoming (Mr. MCGEE) and the Senator from Idaho (Mr. CHURCH); provided further, that there be a time limitation on an amendment in the second degree to the amendment by Mr. MCGEE, the second degree amendment to be offered by Mr. FONG, the time limitation on that amendment to be 2 hours, to be equally divided between and controlled by Mr. FONG and Mr. CHURCH;

Provided further, that the vote on the amendment by Mr. FONG occur at the hour of 3:30 p.m. on Monday;

That immediately upon the disposition of that vote, a vote occur on the amendment by Mr. MCGEE;

That immediately upon the disposition of that vote, the Senate proceed to the consideration of the substitute amendment to be proposed by Mr. CHURCH and Mr. DOMINICK;

Provided further, that the vote on the motion to invoke cloture on Senate Resolution 293 occur on Wednesday next at the hour of 11 o'clock a.m.;

Provided further, that no tabling motion be in order with respect to the amendment of Mr. FONG or the amendment of Mr. MCGEE, and that regardless of the disposition of the amendment by Mr. FONG, no further amendment in the second degree be in order to the amendment of Mr. MCGEE.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Would the Senator from West Virginia clarify one point? As to the Church amendment, if we get to that point, there is no agreement that the Church amendment would not be subject to any normal parliamentary procedure, such as the offering of substitutes?

Mr. ROBERT C. BYRD. No, the agreement would only assure that the Senate would proceed to the consideration of the Church-Dominick substitute. Amendments to the substitute would be in order.

Before the Chair rules on the request, if the request is agreed to, it would be my intention to, and I do, ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until the hour of 10 o'clock a.m. on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Then, if the request is agreed to, I shall ask unanimous consent that at a certain hour on Monday, the Senate proceed to the consideration of the Fong amendment, and that it then proceed, after 2 hours, to the consideration of the McGee amend-

ment, and then, of course, the voting would occur as already stated.

Mr. GRIFFIN. Mr. President, will the Senator yield for a clarification?

Mr. ROBERT C. BYRD. I yield.

Mr. GRIFFIN. A part of the request, as I understood it, was that no further amendment to the McGee amendment would be in order. Am I correct, however, in stating that that would not necessarily preclude a perfecting amendment to some other part of the resolution?

Mr. ROBERT C. BYRD. I do not understand the wording of the resolution, nor do I know what the verbiage of the McGee amendment is, but—the Chair can correct me if I am incorrect—it is my understanding that my request, ordinarily speaking, would not rule out other perfecting amendments to the resolution.

Mr. GRIFFIN. Well, ordinarily, as I understand it, the Church substitute could be pending and subject to amendment, but that would not preclude other amendments being offered to the resolution itself.

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER (Mr. HASKELL). The Chair would state that once the Church substitute amendment comes up, then any part of the resolution not already amended would be open to a perfecting amendment.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Would the Chair state, under the provisions of the proposed unanimous-consent request pertaining to the filing of the cloture motion, whether I am correct in understanding that all amendments that would be on the desk as of 11 o'clock Wednesday will be in order at that time?

Mr. ROBERT C. BYRD. Mr. President, unless there is a unanimous-consent agreement to that effect, that would not be the case, but it has recently been the custom to grant unanimous consent making such amendments in order.

Mr. STEVENS. I just want to make certain that the amendments do not have to be in tomorrow. I just want to make sure that it is sufficient if they be in before the cloture vote, as under normal procedure.

Mr. ROBERT C. BYRD. Mr. President, I make that a part of my unanimous-consent request—that such amendments qualify as having been read.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. ROBERT C. BYRD. Mr. President, I want to be sure that the distinguished assistant Republican leader has had his question answered, and that it is perfectly clear to Mr. CHURCH and Mr. MCGEE as to what——

The PRESIDING OFFICER. Will the distinguished assistant Republican leader state his question again?

Mr. GRIFFIN. Mr. President, I will state to the Chair that I was satisfied with the response I got. It was my understanding that, as a part of the unanimous-consent request, some reference was made to the fact that if the McGee amendment were adopted, it would not be subject to further amendment. The point I wanted to establish was whether or not there could be amendments offered to other portions of the resolution which had not been amended by the McGee amendment, and it is my understanding that such amendments could be offered.

The PRESIDING OFFICER. The Senator is correct.

Mr. McGEE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. McGEE. I just want the RECORD to show that the majority whip's recounting of this intricate web of agreements and his balancing of the reservations that we all had on this matter was an incredible recitation, and totally accurate. I want to commend him on having put it all together in one piece to achieve unanimous consent. It has to rival whatever Henry did today.

Mr. CHURCH. I believe the Senator from West Virginia has complete recall.

Mr. ROBERT C. BYRD. I thank both Senators.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL 11 A.M. ON MONDAY, MARCH 4, 1974

Mr. ROBERT C. BYRD. Mr. President, I do not think there will be a necessity for the Senate to come in at 10 o'clock on Monday morning. I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until the hour of 11 o'clock a.m. on Monday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Monday next, there be a period for the transaction of routine morning business not to extend beyond the hour of 11:30 a.m., with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair would point out to the distinguished Senator from West Virginia that there is an absence of 30 minutes involved in that request—15 minutes to the Senator from Michigan and 15 minutes to——

Mr. ROBERT C. BYRD. By my last request, I have wiped out the time for the Senator from Michigan and my own.

The PRESIDING OFFICER. The Chair thanks the Senator.

ORDER FOR CONSIDERATION OF SENATE RESOLUTION 293 ON MONDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the transaction of routine morning business on Monday next, the Senate proceed to the consideration of Senate Resolution 293.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, under the previous order, what time will the Senate convene tomorrow?

The PRESIDING OFFICER. At 10 o'clock.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR McGOVERN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, after the two leaders or their designees have been recognized under the standing order, the Senator from South Dakota (Mr. MCGOVERN) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR GRIFFIN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of Senator MCGOVERN, tomorrow, the assistant Republican leader (Mr. GRIFFIN) be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the assistant Republican leader tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes with statements therein limited therein to 5 minutes each, at the conclusion of which the Senate return to the consideration of the minimum wage bill.

ORDER OF BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, may I say that tomorrow after routine morning business it is anticipated that the Senate will proceed to consider at least some of the various money resolutions for the funding of committees. The distinguished chairman of the Committee on Rules and Administration (Mr. CANNON) has indicated he is ready to proceed with consideration of those resolutions tomorrow. There may be yea-and-nays votes on some of them.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate go into executive session to consider nominations on the executive calendar.

There being no objection, the Senate proceeded to the consideration of executive business.

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nomination of Duane K. Craske, of Guam, to be U.S. attorney for the district of Guam.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Wayman G. Sherrer, of Alabama, to be U.S. attorney for the northern district of Alabama.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Thomas F. Turley, Jr., of Tennessee, to be U.S. attorney for the western district of Tennessee.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of J. Keith Gary, of Texas, to be U.S. marshal for the eastern district of Texas.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Lee R. Owen, of Arkansas, to be U.S. marshal for the western district of Arkansas.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of John W. Spurrier, of Maryland, to be U.S. marshal for the district of Maryland.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of William M. Johnson, of Georgia, to be U.S. marshal for the southern district of Georgia.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Laurence H. Silberman, of Maryland, to be Deputy Attorney General.

Mr. HRUSKA. Mr. President, I rise today with great pleasure to voice my support for Laurence H. Silberman to be Deputy Attorney General of the United States.

President Nixon has sent to the Senate for nomination an individual who has consistently exhibited strong personal convictions in the exercise of his professional endeavors, both within the government and without. Formerly an attorney with the National Labor Relations Board, followed by brief service as Solicitor of the Department of Labor, Mr. Silberman undertook a most demanding position as Undersecretary of the Department of Labor. In his position as Undersecretary, as with his previous assignments, he conducted himself with the highest degree of competence and provided excellent service to his country.

Upon leaving the Federal service, Mr. Silberman became a partner in one of Washington's largest law firms and continued to distinguish himself as a lawyer and man of high professional integrity. Against this varied background as lawyer, administrator, and private practitioner, Mr. Silberman now comes to the high office of the No. 2 law enforcement officer of the Nation.

During the hearings on his nomination before the Judiciary Committee, Mr. Silberman presented himself in a forthright and candid manner, and responded concisely and objectively to many penetrating and direct questions concerning his professional conduct and ethical beliefs. I believe, as I am sure other members of the committee do, that Mr. Silberman displayed an open and sensitive nature to the grave responsibilities placed on individuals in high public office. We are indeed fortunate to have a man of Mr. Silberman's quality and ability available to assume the high responsibility of serving as Deputy Attorney General of the United States in the Department of Justice.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the President of the United States be notified of the action of the Senate with regard to the several nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate resume the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRIFFIN). Without objection, it is so ordered.

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR ROBERT C. BYRD TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the distinguished assistant Republican leader is recognized, I be recognized for not to exceed 15 minutes, prior to the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, let me see if I can recapitulate the program for Monday.

The Senate will convene at 11 a.m. on Monday next. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business not to extend beyond the hour of 11:30 a.m., with statements therein limited to 5 minutes.

At the hour of 11:30 a.m., the Senate will proceed to the consideration of Senate Resolution 293.

Mr. President, I ask unanimous consent that at that time, the Senator from Wyoming (Mr. McGEE) be recognized for the purpose of calling up his amendment to Senate Resolution 293 and I also ask unanimous consent that the hours between 11:30 a.m. and 3:30 p.m. be equally divided for debate upon the amendment by Senator McGEE to Senate Resolution 293 and the amendment by the Senator from Hawaii (Mr. FONG) to the amendment by Mr. McGEE, with 2 hours for debate on each of those amendments, the time to be equally divided and controlled on each amendment by the mover thereof and the distinguished Senator from Idaho (Mr. CHURCH).

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, immediately following the vote on the amendment by Senator Fong to the amendment by Senator McGEE, that no quorum call be in order.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the second rollcall vote, which will be back to back behind the first, be limited to 10 minutes, with the warning bells to sound after the first 2½ minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, let me begin again.

The Senate will convene at 11 a.m. on Monday next. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business not to extend beyond the hour of 11:30 a.m., with statements therein limited to 5 minutes, at the conclusion of which the Senate will proceed to the consideration of Senate Resolution 293.

Between the hours of 11:30 a.m. and 3:30 p.m. on Monday next, debate will ensue on the two amendments, the one by Senator McGee and the other by Senator Fong, with the debate to be equally divided and controlled, with 2 hours on each of the amendments.

A vote will occur at the hour of 3:30 p.m. on the amendment by Senator Fong, which will be an amendment in the second degree; followed immediately, without any intervening quorum call, by a vote on the amendment by Senator McGee to Senate Resolution 293.

The vote on the McGee amendment will be a 10-minute rollcall vote.

Immediately following the disposition of the McGee amendment, the Senate will proceed to the consideration of the amendment in the nature of a substitute to be offered by th Senator from Idaho (Mr. Church) and the Senator from Colorado (Mr. Dominick).

Further perfecting amendments to Senate Resolution 293 will be in order at that time.

The distinguished majority leader (Mr. Mansfield) will offer a cloture motion tomorrow on Senate Resolution 293. He may do this at any time, whether or not the resolution is before the Senate—under the unanimous consent order that was entered.

A vote on the motion to invoke cloture will occur at 11 a.m. on Wednesday next.

Mr. President, I ask unanimous consent that when the Senate completes it business on Tuesday next, it stand in adjournment until the hour of 10 a.m. on Wednesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time for debate on the motion to invoke cloture on Wednesday next be equally divided and controlled by the majority leader (Mr. Mansfield) and the minority leader (Mr. Hugh Scott) or their designees.

Tomorrow the Senate will resume the consideration of the minimum wage bill.

It is my understanding that the Committee on Rules and Administration has today reported resolutions for the funding of committees. It is quite possible that some or all of the resolutions may be considered tomorrow, depending upon the circumstances.

I do not know whether the Committee on Rules and Administration needs time to file further reports today on such money resolutions; in any event, I ask unanimous consent that the Committee on Rules and Administration may have until midnight tonight to file reports on various resolutions and or bills coming from that committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until the hour of 12 o'clock noon tomorrow.

The motion was agreed to; and at 6:20 p.m. the Senate adjourned until tomorrow, Friday, March 1, 1974, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate February 28, 1974:

U.S. Assay Office of New York

Allan Stephen Ryan, of New York, to be Assayer of the U.S. Assay Office at New York, N.Y., vice Paul J. Maguire, resigned.

Department of Justice

Robert W. Rust, of Florida, to be U.S. attorney for the southern district of Florida for the term of 4 years. (Reappointment.)

Stanley B. Miller, of Indiana, to be U.S. attorney for the southern district of Indiana for the term of 4 years. (Reappointment.)

In the Army

The following-named Army Medical Department officers for temporary appointment in the Army of the United States, to the grades indicated, under the provisions of title 10, United States Code, sections 3442 and 3447:

To be major general (Medical Corps)

Brig. Gen. Robert Wesley Green, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. Marshall Edward McCabe, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

To be brigadier general (Medical Corps)

Col. Philip Augustus Deffer, [redacted], Medical Corps, U.S. Army.

Col. Floyd Wilmer Baker, [redacted], Army of the United States (lieutenant colonel, Medical Corps, U.S. Army).

The following-named officer for appointment in the Regular Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3307:

To be major general (Medical Corps)

Maj. Gen. Edward Henry Vogel, Jr., [redacted], Army of the United States (brigadier general, Medical Corps, U.S. Army).

The following-named officers for appointment in the Regular Army of the United States, to the grade indicated, under the provisions of title 10, United States Code, sections 3284 and 3306:

To be brigadier general (Medical Corps)

Maj. Gen. George Joseph Hayes, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. Marshall Edward McCabe, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

Brig. Gen. Robert Wesley Green, [redacted], Army of the United States (colonel, Medical Corps, U.S. Army).

To be brigadier general (Medical Service Corps)

Brig. Gen. John Edward Haggerty, [redacted], Army of the United States (colonel, Medical Service Corps, U.S. Army).

CONFIRMATIONS

Executive nominations confirmed by the Senate February 28, 1974:

Department of Justice

Laurence H. Silberman, of Maryland, to be Deputy Attorney General.

Duane K. Craske, of Guam, to be U.S. attorney for the district of Guam for the term of 4 years.

Wayman G. Sherrer, of Alabama, to be U.S. attorney for the northern district of Alabama for the term of 4 years.

Thomas F. Turley, Jr., of Tennessee, to be U.S. attorney for the western district of Tennessee for the term of 4 years.

J. Keith Gary, of Texas, to be U.S. marshal for the eastern district of Texas for the term of 4 years.

Lee R. Owen, of Arkansas, to be U.S. marshal for the western district of Arkansas for the term of 4 years.

John W. Spurrier, of Maryland, to be U.S. marshal for the district of Maryland for the term of 4 years.

William M. Johnson, of Georgia, to be U.S. marshal for the southern district of Georgia for the term of 4 years.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Thursday, February 28, 1974*

The House met at 12 o'clock noon.

Dr. Samuel Lindsay, Royal Poinciana Chapel, Palm Beach, Fla., offered the following prayer:

Gracious God, we rejoice because we live in the best part of the best continent on this planet. May we justify Thy goodness by striving to create the best form of government for Thy people.

Remind us that moral excellency means national well-being, and that moral decadence means national disintegration.

Remind us that it is the will of God that nations should solve their problems by conference rather than by conflict.

Remind us might does not make right; that only right makes right.

Remind us that history has to be repeated for those who do not read history.

Remind us that God expects nations, like individuals, to practice the Golden Rule.

Remind us that good laws should be respected, and foolish laws corrected.

For the Nation's sake. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.